

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 115**

**Introduced by Assembly Member Klehs**

January 12, 2005

---

An act to amend Sections ~~17144 and 24307~~ of 17024.5, 17052.6, 17072, 17077, 17085, 17131, 17132.5, 17140, 17140.3, 17144, 17152, 17204, 17220, 17250, 17250.5, 17255, 17256, 17279.4, 17501, 17551, 17561, 17731, 18571, 18572, 18633, 19008, 19041.5, 19116, 19184, 19559, 23051.5, 23701s, 23701w, 23703.5, 23705, 23711, 23712, 24306, 24349, 24369.4, 24407, 24601, 24654, 24661.5, 24692, 24872, 24949.1, and 24949.3 of, to add Sections 17131.6, 17139.6, 17201.4, 17201.5, 17201.6, 17204.7, 17681.6, 17760, 18035.6, 18036.6, 19136.7, 24355.3, 24406.6, 24661.6, 24694, and 24831.6 to, to add and repeal Sections 17053.62, 17255.5, 23662, and 24356.4 of, and to repeal Sections 17131.8, 17137, 17144.5, 17160.5, 17202.5, 17205, 19559, and 24356.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 115, as amended, Klehs. ~~Personal income and corporation taxes.~~ *Taxation: federal conformity.*

~~The Personal Income Tax Law and the Corporation Tax Law, by reference to specified federal statutes, specify the manner in which "gross income" is calculated for purposes of those laws. These provisions generally require that "gross income" include indebtedness that has been discharged, except for specified discharges of indebtedness.~~

~~This bill would exclude from the calculation of gross income under the Personal Income Tax Law and the Corporation Tax Law certain~~

~~discharges of indebtedness that were recently excluded from gross income under federal law, as specified. This bill would also remove the exclusion from gross income, and therefore include within the calculation of gross income, specified cancellations of indebtedness.~~

~~This bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

*Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2002, the specified date of those referenced Internal Revenue Code sections is January 1, 2001, unless otherwise specifically provided.*

*Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis to be made available to the public and to be submitted to the Legislature for publication in the daily journal of each house of the Legislature.*

*This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2005, for taxable years beginning on or after January 1, 2005, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2002, and that have not been, or are not being, excepted or modified.*

*This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, with respect to, among other things, deductions for real estate professionals, the exclusion from income of qualified foster care payments, health savings accounts, certain definitions, expensing for small businesses, low-income community tax credits, shareholder*

*treatment, eligible shareholders, transfers of suspended losses incident to divorce, repayment of loans for qualifying employer securities, phaseouts of certain motor fuel excise taxes, suspension of occupational taxes relating to certain alcoholic beverages, information reporting for certain individuals, capital gain treatment applying to outright sales for landowners, expenses of rural letter carriers, expensing of certain reforestation expenditures, interest expense allocation rules, translation of foreign taxes, civil rights tax relief, and specified federal acts. This bill would specify various dates on which specified provisions apply, make findings and declarations that certain provisions are declaratory of existing law, and specify the intent and operation in the application of provisions conforming to various federal acts.*

*The Personal Income Tax Law and the Corporation Tax Law authorize various deductions and credits in computing the taxes imposed by those laws.*

*This bill would, under both laws, for taxable years beginning on or after January 1, 2006, and before January 1, 2012, allow an environmental tax credit in an amount equal to 5¢ for each gallon of ultra-low sulfur diesel fuel produced by a small refiner, as defined, at any facility located in this state.*

*This bill would also, under both laws, for a period beginning on January 1, 2005, and ending on January 1, 2009, authorize a small refiner to elect to treat 75% of qualified capital costs, as defined, as expenses not chargeable to capital account and expenses that may be deducted, as provided.*

*This bill would take effect immediately as a tax levy.*

*Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.*

*The people of the State of California do enact as follows:*

- 1     **SECTION 1.** *Section 17024.5 of the Revenue and Taxation*
- 2     *Code is amended to read:*
- 3     17024.5. (a) (1) Unless otherwise specifically provided, the
- 4     terms “Internal Revenue Code,” “Internal Revenue Code of
- 5     1954,” or “Internal Revenue Code of 1986,” for purposes of this
- 6     part, mean Title 26 of the United States Code, including all
- 7     amendments thereto as enacted on the specified date for the
- 8     applicable taxable year as follows:

		Specified Date of
		Internal Revenue
	Taxable Year	Code Sections
1		
2		
3		
4	(A) For taxable years beginning on or after	
5	January 1, 1983, and on or before December	
6	31, 1983.....	January 15, 1983
7	(B) For taxable years beginning on or after	
8	January 1, 1984, and on or before December	
9	31, 1984.....	January 1, 1984
10	(C) For taxable years beginning on or after	
11	January 1, 1985, and on or before December	
12	31, 1985.....	January 1, 1985
13	(D) For taxable years beginning on or after	
14	January 1, 1986, and on or before December	
15	31, 1986.....	January 1, 1986
16	(E) For taxable years beginning on or after	
17	January 1, 1987, and on or before December	
18	31, 1988.....	January 1, 1987
19	(F) For taxable years beginning on or after	
20	January 1, 1989, and on or before December	
21	31, 1989.....	January 1, 1989
22	(G) For taxable years beginning on or after	
23	January 1, 1990, and on or before December	
24	31, 1990.....	January 1, 1990
25	(H) For taxable years beginning on or after	
26	January 1, 1991, and on or before December	
27	31, 1991.....	January 1, 1991
28	(I) For taxable years beginning on or after	
29	January 1, 1992, and on or before December	
30	31, 1992.....	January 1, 1992
31	(J) For taxable years beginning on or after	
32	January 1, 1993, and on or before December	
33	31, 1996.....	January 1, 1993
34	(K) For taxable years beginning on or after	
35	January 1, 1997, and on or before December	
36	31, 1997 .....	January 1, 1997
37	(L) For taxable years beginning on or after	
38	January 1, 1998, and on or before December	
39	31, 2001 .....	January 1, 1998

1		Specified Date of
2		Internal Revenue
3	Taxable Year	Code Sections
4	(M) For taxable years beginning on or after	
5	January 1, 2002, <i>and on or before December 31,</i>	
6	<i>2004</i> .....	January 1, 2001
7	(N) For taxable years beginning on or after	
8	January 1, 2005.....	January 1, 2005

9

10 (2) (A) Unless otherwise specifically provided, for federal

11 laws enacted on or after January 1, 1987, and on or before the

12 specified date for the taxable year, uncodified provisions that

13 relate to provisions of the Internal Revenue Code that are

14 incorporated for purposes of this part shall be applicable to the

15 same taxable years as the incorporated provisions.

16 (B) *In the case where Section 901 of the Economic Growth*

17 *and Tax Relief Act of 2001 (Public Law 107-16) applies to any*

18 *provision of the Internal Revenue Code that is incorporated for*

19 *purposes of this part, Section 901 of the Economic Growth and*

20 *Tax Relief Act of 2001 shall apply for purposes of this part in the*

21 *same manner and to the same taxable years as it applies for*

22 *federal income tax purposes.*

23 (3) Subtitle G (Tax Technical Corrections) and Part I of

24 Subtitle H (Repeal of Expired or Obsolete Provisions) of the

25 Revenue Reconciliation Act of 1990 (Public Law 101-508)

26 modified numerous provisions of the Internal Revenue Code and

27 provisions of prior federal acts, some of which are incorporated

28 by reference into this part. Unless otherwise provided, the

29 provisions described in the preceding sentence, to the extent that

30 they modify provisions that are incorporated into this part, are

31 declaratory of existing law and shall be applied in the same

32 manner and for the same periods as specified in the Revenue

33 Reconciliation Act of 1990.

34 (b) Unless otherwise specifically provided, when applying any

35 provision of the Internal Revenue Code for purposes of this part,

36 a reference to any of the following is not applicable for purposes

37 of this part:

38 (1) Except as provided in Chapter 4.5 (commencing with

39 Section 23800) of Part 11 of Division 2, an electing small

- 1 business corporation, as defined in Section 1361(b) of the  
2 Internal Revenue Code.
- 3 (2) Domestic international sales corporations (DISC), as  
4 defined in Section 992(a) of the Internal Revenue Code.
- 5 (3) A personal holding company, as defined in Section 542 of  
6 the Internal Revenue Code.
- 7 (4) A foreign personal holding company, as defined in Section  
8 552 of the Internal Revenue Code.
- 9 (5) A foreign investment company, as defined in Section  
10 1246(b) of the Internal Revenue Code.
- 11 (6) A foreign trust, as defined in Section 679 of the Internal  
12 Revenue Code.
- 13 (7) Foreign income taxes and foreign income tax credits.
- 14 (8) Section 911 of the Internal Revenue Code, relating to  
15 United States citizens living abroad.
- 16 (9) A foreign corporation, except that Section 367 of the  
17 Internal Revenue Code shall be applicable.
- 18 (10) Federal tax credits and carryovers of federal tax credits.
- 19 (11) Nonresident aliens.
- 20 (12) Deduction for personal exemptions, as provided in  
21 Section 151 of the Internal Revenue Code.
- 22 (13) The tax on generation-skipping transfers imposed by  
23 Section 2601 of the Internal Revenue Code.
- 24 (14) The tax, relating to estates, imposed by Section 2001 or  
25 2101 of the Internal Revenue Code.
- 26 (c) (1) The provisions contained in Sections 41 to 44,  
27 inclusive, and 172 of the Tax Reform Act of 1984 (Public Law  
28 98-369), relating to treatment of debt instruments, is not  
29 applicable for taxable years beginning before January 1, 1987.
- 30 (2) The provisions contained in Public Law 99-121, relating to  
31 the treatment of debt instruments, is not applicable for taxable  
32 years beginning before January 1, 1987.
- 33 (3) For each taxable year beginning on or after January 1,  
34 1987, the provisions referred to by paragraphs (1) and (2) shall  
35 be applicable for purposes of this part in the same manner and  
36 with respect to the same obligations as the federal provisions,  
37 except as otherwise provided in this part.
- 38 (d) When applying the Internal Revenue Code for purposes of  
39 this part, regulations promulgated in final form or issued as  
40 temporary regulations by “the secretary” shall be applicable as

1 regulations under this part to the extent that they do not conflict  
2 with this part or with regulations issued by the Franchise Tax  
3 Board.

4 (e) Whenever this part allows a taxpayer to make an election,  
5 the following rules shall apply:

6 (1) A proper election filed with the Internal Revenue Service  
7 in accordance with the Internal Revenue Code or regulations  
8 issued by “the secretary” shall be deemed to be a proper election  
9 for purposes of this part, unless otherwise provided in this part or  
10 in regulations issued by the Franchise Tax Board.

11 (2) A copy of that election shall be furnished to the Franchise  
12 Tax Board upon request.

13 (3) (A) Except as provided in subparagraph (B), in order to  
14 obtain treatment other than that elected for federal purposes, a  
15 separate election shall be filed at the time and in the manner  
16 required by the Franchise Tax Board.

17 (B) (i) If a taxpayer makes a proper election for federal  
18 income tax purposes prior to the time that taxpayer becomes  
19 subject to the tax imposed under this part or Part 11  
20 (commencing with Section 23001), that taxpayer is deemed to  
21 have made the same election for purposes of the tax imposed by  
22 this part, Part 10.2 (commencing with Section 18401), and Part  
23 11 (commencing with Section 23001), as applicable, and that  
24 taxpayer may not make a separate election for California tax  
25 purposes unless that separate election is expressly authorized by  
26 this part, Part 10.2 (commencing with Section 18401), or Part 11  
27 (commencing with Section 23001), or by regulations issued by  
28 the Franchise Tax Board.

29 (ii) If a taxpayer has not made a proper election for federal  
30 income tax purposes prior to the time that taxpayer becomes  
31 subject to tax under this part or Part 11 (commencing with  
32 Section 23001), that taxpayer may not make a separate California  
33 election for purposes of this part, Part 10.2 (commencing with  
34 Section 18401), or Part 11 (commencing with Section 23001)  
35 unless that separate election is expressly authorized by this part,  
36 Part 10.2 (commencing with Section 18401), or Part 11  
37 (commencing with Section 23001), or by regulations issued by  
38 the Franchise Tax Board.

39 (iii) This subparagraph applies only to the extent that the  
40 provisions of the Internal Revenue Code or the regulation issued

1 by “the secretary” authorizing an election for federal income tax  
2 purposes apply for purposes of this part, Part 10.2 (commencing  
3 with Section 18401) or Part 11 (commencing with Section  
4 23001).

5 (f) Whenever this part allows or requires a taxpayer to file an  
6 application or seek consent, the rules set forth in subdivision (e)  
7 shall be applicable with respect to that application or consent.

8 (g) When applying the Internal Revenue Code for purposes of  
9 determining the statute of limitations under this part, any  
10 reference to a period of three years shall be modified to read four  
11 years for purposes of this part.

12 (h) When applying, for purposes of this part, any section of the  
13 Internal Revenue Code or any applicable regulation thereunder,  
14 all of the following shall apply:

15 (1) References to “adjusted gross income” shall mean the  
16 amount computed in accordance with Section 17072, except as  
17 provided in paragraph (2).

18 (2) References to “adjusted gross income” for purposes of  
19 computing limitations based upon adjusted gross income, shall  
20 mean the amount required to be shown as adjusted gross income  
21 on the federal tax return for the same taxable year.

22 (3) Any reference to “subtitle” or “chapter” shall mean this  
23 part.

24 (4) The provisions of Section 7806 of the Internal Revenue  
25 Code, relating to construction of title, shall apply.

26 (5) Any provision of the Internal Revenue Code that becomes  
27 operative on or after the specified date for that taxable year shall  
28 become operative on the same date for purposes of this part.

29 (6) Any provision of the Internal Revenue Code that becomes  
30 inoperative on or after the specified date for that taxable year  
31 shall become inoperative on the same date for purposes of this  
32 part.

33 (7) Due account shall be made for differences in federal and  
34 state terminology, effective dates, substitution of “Franchise Tax  
35 Board” for “secretary” when appropriate, and other obvious  
36 differences.

37 (i) Any reference to a specific provision of the Internal  
38 Revenue Code shall include modifications of that provision, if  
39 any, in this part.



SEC. 2. Section 17052.6 of the Revenue and Taxation Code is amended to read:

17052.6. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) an amount determined in accordance with Section 21 of the Internal Revenue Code, ~~as modified by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16)~~, except that the amount of the credit shall be a percentage, as provided in subdivision (b) of the allowable federal credit without taking into account whether there is a federal tax liability.

(b) For the purposes of subdivision (a), the percentage of the allowable federal credit shall be determined as follows:

(1) For taxable years beginning before January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
\$40,000 or less.....	63%
Over \$40,000 but not over \$70,000.....	53%
Over \$70,000 but not over \$100,000.....	42%
Over \$100,000.....	0%

(2) For taxable years beginning on or after January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
\$40,000 or less.....	50%
Over \$40,000 but not over \$70,000.....	43%
Over \$70,000 but not over \$100,000.....	34%
Over \$100,000.....	0%

(c) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against other amounts due, if any, from the taxpayer and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

(d) For purposes of this section, adjusted gross income means adjusted gross income as computed for purposes of paragraph (2) of subdivision (h) of Section 17024.5.

(e) The credit authorized by this section shall be limited to employment-related expenses, within the meaning of Section 21 of the Internal Revenue Code, but only for child care services or care provided in this state and only to the extent of earned income (within the meaning of Section 21(d) of the Internal Revenue Code) from sources within this state.

(f) For purposes of this section, Section 21(b)(1) of the Internal Revenue Code, relating to a qualifying individual, is modified to additionally provide that a child (as defined in Section 151(c)(3) of the Internal Revenue Code) shall be treated, for purposes of Section 152 of the Internal Revenue Code (as applicable for purposes of this section), as receiving over one-half of his or her support during the calendar year from the parent having custody for a greater portion of the calendar year, that parent shall be treated as a “custodial parent” (within the meaning of Section 152(e) of the Internal Revenue Code, as applicable for purposes of this section), and the child shall be treated as a qualifying individual under Section 21(b)(1) of the Internal Revenue Code, as applicable for purposes of this section, if both of the following apply:

(1) The child receives over one-half of his or her support during the calendar year from his or her parents who never married each other and who live apart at all times during the last six months of the calendar year.

(2) The child is in the custody of one or both of his or her parents for more than one-half of the calendar year.

(g) The amendments to this section made by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2002.

*SEC. 3. Section 17053.62 is added to the Revenue and Taxation Code, to read:*

*17053.62. (a) For each taxable year beginning on or after January 1, 2006, and before January 1, 2012, there shall be allowed as an environmental tax credit against the “net tax,” as defined by Section 17039, an amount equal to five cents (\$0.05) for each gallon of ultra-low sulfur diesel fuel produced during the taxable year by a small refiner at any facility located in this state.*

*(b) The aggregate credit determined under subdivision (a) for any taxable year with respect to any facility shall not exceed 25*

1 *percent of the qualified capital costs incurred by the small*  
2 *refiner with respect to that facility, reduced by the aggregate*  
3 *credits determined under this section for all prior taxable years*  
4 *with respect to that facility.*

5 *(c) For purposes of this section:*

6 *(1) "Small refiner" means any refiner who owns or operates a*  
7 *refinery in California that:*

8 *(A) Has and at all times had since January 1, 1978, a crude*  
9 *oil capacity of not more than 55,000 barrels per stream day.*

10 *(B) Has not been at any time since September 1, 1988, owned*  
11 *or controlled by any refiner that at the same time owned or*  
12 *controlled refineries in California with a total combined crude*  
13 *oil capacity of more than 55,000 barrels per stream day.*

14 *(C) Has not been at any time since September 1, 1988, owned*  
15 *or controlled by any refiner that at the same time owned or*  
16 *controlled refineries in the United States with a total combined*  
17 *crude oil capacity of more than 137,500 barrels per stream day.*

18 *(2) (A) "Qualified capital costs" means, with respect to any*  
19 *facility, those costs paid or incurred during the applicable period*  
20 *for items certified by the California Air Resources Board under*  
21 *subparagraph (B) for compliance with the applicable EPA or*  
22 *CARB regulations with respect to that facility, including, but not*  
23 *limited to, expenditures for the construction of new process*  
24 *operation units or the dismantling and reconstruction of existing*  
25 *process units to be used in the production of ultra-low sulfur*  
26 *diesel fuel, associated adjacent or offsite equipment (including*  
27 *tankage, catalyst, and power supply), engineering, construction*  
28 *period interest, site work, and permitting.*

29 *(B) (i) Before claiming a credit under this section, a small*  
30 *refiner shall request from the California Air Resources Board a*  
31 *certification that both of the following are true:*

32 *(I) That the items for which qualified capital costs were paid*  
33 *or incurred are for compliance with the applicable EPA or*  
34 *CARB regulations described in subparagraph (A).*

35 *(II) That the items for which qualified capital costs were paid*  
36 *or incurred have been placed in service by the small refiner.*

37 *(ii) The request described in clause (i) shall be in a form and*  
38 *contain sufficient information to allow the California Air*  
39 *Resources Board to determine that the items that are requested*  
40 *to be certified were placed in service for compliance with*

1 applicable EPA and CARB regulations, which information shall  
2 include the date on which the items were placed in service.

3 (C) The California Air Resources Board shall make a  
4 determination regarding a request described in subparagraph  
5 (B) on or before 60 days after the request is submitted. If the  
6 board does not make a determination within this time period, the  
7 certification will be deemed to be granted.

8 (3) "Facility" means a small refiner's petroleum refinery  
9 located in the State of California that has incurred qualified  
10 capital costs to produce ultra-low sulfur diesel fuel.

11 (4) "Applicable EPA regulations" means the Highway Diesel  
12 Fuel Sulfur Control Requirements of the Environmental  
13 Protection Agency.

14 (5) "Applicable CARB regulations" means the Vehicular  
15 Diesel Fuel Sulfur (CARB) under Resolution 03-17

16 (6) "Applicable period" means, with respect to any facility,  
17 the period beginning on January 1, 2004, and ending on May 31,  
18 2007.

19 (7) "Ultra-low sulfur diesel fuel" means both of the following:

20 (A) Diesel fuel with a sulfur content of 15 parts per million or  
21 less.

22 (B) (i) Subject to clause (ii), either of the following:

23 (I) Vehicular diesel fuel produced and sold by a small refiner  
24 on or after June 1, 2006.

25 (II) Vehicular diesel fuel produced and sold by the small  
26 refiner before June 1, 2006, that the small refiner specifically  
27 identifies and supports through internal test reports as meeting  
28 applicable CARB regulations.

29 (ii) For purposes of this section, it is rebuttably presumed that  
30 the fuel described in clause (i) is ultra-low sulfur diesel fuel. The  
31 California Air Resources Board may rebut this presumption by  
32 demonstrating that the fuel does not comply with applicable  
33 CARB regulations.

34 (8) "Barrels per stream day" means the maximum number of  
35 barrels of input that a distillation facility can process within a  
36 24-hour period when running at full capacity under optimal  
37 crude and product slate conditions with no allowance for  
38 downtime.

39 (d) For purposes of this section, if a credit is determined under  
40 this section for any expenditure with respect to any property, the

1 increase in basis of that property that would (but for this  
2 subdivision) result from that expenditure shall be reduced by the  
3 amount of the credit so determined.

4 (e) No deduction shall be allowed for that portion of the  
5 expenses otherwise allowable as a deduction for the taxable year  
6 that is equal to the amount of the credit determined for the  
7 taxable year under this section.

8 (f) In the case where the credit allowed by this section exceeds  
9 the "net tax," the excess may be carried over to reduce the "net  
10 tax" in the following year, and the six succeeding years if  
11 necessary, until the credit is exhausted.

12 (g) If a small refiner that claims a credit under this section  
13 sells, transfers, or otherwise disposes of, either directly or  
14 indirectly, a facility within five years of the taxable year during  
15 which it first claimed the credit, there shall be added to the "net  
16 tax" of the small refiner during the taxable year of sale, transfer,  
17 or disposition an amount equal to the total credit claimed  
18 multiplied by a fraction, the numerator of which is the remaining  
19 term of five years and the denominator of which is 5.

20 (h) This section is repealed on January 1, 2013.

21 SEC. 4. Section 17072 of the Revenue and Taxation Code is  
22 amended to read:

23 17072. (a) Section 62 of the Internal Revenue Code, relating  
24 to adjusted gross income defined, applies, except as otherwise  
25 provided.

26 (b) ~~The deduction allowed by Section 17204, relating to~~  
27 ~~interest on education loans, is allowed in computing adjusted~~  
28 ~~gross income Section 62(a)(2)(D) of the Internal Revenue Code,~~  
29 ~~relating to certain expenses of elementary and secondary school~~  
30 ~~teachers, shall not apply.~~

31 (c) ~~(1) The deductions allowed in computing adjusted gross~~  
32 ~~income include the deductions allowed by Section 162 of the~~  
33 ~~Internal Revenue Code, as modified by Section 17202.5,~~  
34 ~~determined under Section 62(a)(2)(E) of the Internal Revenue~~  
35 ~~Code, as added by the Military Family Tax Relief Act of 2003~~  
36 ~~(Public Law 108-121).~~

37 (2) ~~The amendments made to this section by the act adding~~  
38 ~~this subdivision shall apply to amounts paid or incurred in~~  
39 ~~taxable years beginning after December 31, 2002.~~

1     *SEC. 5. Section 17077 of the Revenue and Taxation Code is*  
2     *amended to read:*

3     17077. Section 68 of the Internal Revenue Code, relating to  
4     overall limitation on itemized deductions, shall apply, except as  
5     otherwise provided.

6     (a) “Six percent” shall be substituted for “3 percent” in Section  
7     68(a)(1) of the Internal Revenue Code.

8     (b) Section 68(b)(1) of the Internal Revenue Code shall not  
9     apply and in lieu thereof the term “applicable amount” in each  
10    place it appears in Section 68(a) of the Internal Revenue Code  
11    means one hundred thousand dollars (\$100,000) in the case of a  
12    single individual or a married individual making a separate  
13    return, one hundred fifty thousand dollars (\$150,000) in the case  
14    of a head of household, and two hundred thousand dollars  
15    (\$200,000) in the case of a surviving spouse or a husband and  
16    wife making a joint return.

17    (c) Section 68(b)(2) of the Internal Revenue Code, relating to  
18    inflation adjustments, shall not apply. However, for any taxable  
19    year beginning on or after January 1, 1992, the applicable  
20    amounts specified in subdivision (b) shall be recomputed  
21    annually in the same manner as the recomputation of income tax  
22    brackets under subdivision (h) of Section 17041.

23    (d) *Section 68(f) of the Internal Revenue Code, relating to*  
24    *phaseout of limitation, shall not apply.*

25    (e) *Section 68(g) of the Internal Revenue Code, relating to*  
26    *termination, shall not apply.*

27    *SEC. 6. Section 17085 of the Revenue and Taxation Code is*  
28    *amended to read:*

29    17085. Section 72 of the Internal Revenue Code, ~~as amended~~  
30    ~~by the Economic Growth and Tax Relief Reconciliation Act of~~  
31    ~~2001 (Public Law 107-16)~~, relating to annuities and certain  
32    proceeds of life insurance contracts, is modified as follows:

33    (a) The amendments and transitional rules made by Public  
34    Law 99-514 shall be applicable to this part for the same  
35    transactions and the same years as they are applicable for federal  
36    purposes, except that the repeal of Section 72(d) of the Internal  
37    Revenue Code, relating to repeal of special rule for employees’  
38    annuities, shall apply only to the following:

39    (1) Any individual whose annuity starting date is after  
40    December 31, 1986.

(2) At the election of the taxpayer, any individual whose annuity starting date is after July 1, 1986, and before January 1, 1987.

(b) The amount of a distribution from an individual retirement account or annuity or employees' trust or employee annuity that is includable in gross income for federal purposes shall be reduced for purposes of this part by the lesser of either of the following:

(1) An amount equal to the amount includable in federal gross income for the taxable year.

(2) An amount equal to the basis in the account or annuity allowed by Section 17507 (relating to individual retirement accounts and simplified employee pensions), the increased basis allowed by Sections 17504 and 17506 (relating to plans of self-employed individuals), the increased basis allowed by Section 17501, or the increased basis allowed by Section 17551 that is remaining after adjustment for reductions in gross income under this provision in prior taxable years.

(c) (1) Except as provided in paragraph (2), the amount of the penalty imposed under this part shall be computed in accordance with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code using a rate of 2½ percent, in lieu of the rate provided in those sections.

(2) In the case where Section 72(t)(6) of the Internal Revenue Code, relating to special rules for simple retirement accounts, applies, the rate in paragraph (1) shall be 6 percent in lieu of the 2½ percent rate specified therein.

(d) Section 72(f)(2) of the Internal Revenue Code, relating to special rules for computing employees' contributions, shall be applicable without applying the exceptions which immediately follow that paragraph.

*SEC. 7. Section 17131 of the Revenue and Taxation Code is amended to read:*

17131. Part III of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code, ~~as amended by Sections 111 and 113 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134)~~, relating to items that are specifically excluded from gross income, shall apply, except as otherwise provided.

*SEC. 8. Section 17131.6 is added to the Revenue and Taxation Code, to read:*

1 17131.6. Section 107 of the Internal Revenue Code is  
2 modified by substituting in paragraph (2) the phrase “the rental  
3 allowance paid to him or her as part of his or her compensation,  
4 to the extent used by him or her to rent or provide a home” in  
5 lieu of the phrase “the rental allowance paid to him as part of his  
6 compensation, to the extent used by him to rent or provide a  
7 home and to the extent such allowance does not exceed the fair  
8 rental value of the home, including furnishings and  
9 appurtenances such as a garage, plus the cost of utilities”  
10 contained therein.

11 SEC. 9. Section 17131.8 of the Revenue and Taxation Code is  
12 repealed.

13 ~~17131.8. Section 117 of the Internal Revenue Code, as~~  
14 ~~amended by the Economic Growth and Tax Relief Reconciliation~~  
15 ~~Act of 2001, relating to qualified scholarships, shall apply,~~  
16 ~~except as otherwise provided.~~

17 SEC. 10. Section 17132.5 of the Revenue and Taxation Code  
18 is amended to read:

19 17132.5. Section 101 of the Internal Revenue Code, relating  
20 to certain death benefits, is modified as follows:

21 (a) Section 101(h) of the Internal Revenue Code, relating to  
22 survivor benefits attributable to service by a public safety officer  
23 who is killed in the line of duty, is modified to apply to amounts  
24 received in taxable years beginning after December 31, 1996,  
25 with respect to individuals dying after December 31, 1996.

26 (b) (1) ~~The amendments made to Section 101 of the Internal~~  
27 ~~Revenue Code by Section 102 of the Victims of Terrorism Tax~~  
28 ~~Relief Act of 2001 (Public Law 107-134) shall apply to taxable~~  
29 ~~years ending before, on, or after September 11, 2001~~ Section 101  
30 of the Internal Revenue Code, as modified by subdivision (a) is  
31 modified to additionally provide that Section 101(h) of the  
32 Internal Revenue Code shall not apply to survivor benefits  
33 attributable to service by a public safety officer who is killed in  
34 the line of duty with respect to deaths occurring before  
35 December 31, 1996, that would otherwise be eligible for  
36 exclusion pursuant to Section 101(h) of the Internal Revenue  
37 Code, as modified by Public Law 107-15.

38 (2) ~~If a refund or a credit of any overpayment of tax resulting~~  
39 ~~from the amendments made by the act amending and~~  
40 ~~renumbering this section is precluded at any time before the close~~



1 of the one-year period beginning on the operative date of that act  
2 by the operation of any law or rule of law, including res judicata,  
3 that refund or credit may nevertheless be made or allowed if a  
4 claim therefor is filed on or before the close of that one-year  
5 period. *The amendments made to this section by the act adding  
6 this subdivision shall apply to amounts paid after December 31,  
7 2001, with respect to deaths occurring on or before December  
8 31, 1996.*

9 (c) (1) Section 101 of the Internal Revenue Code, as modified  
10 by subdivision (b), is modified to additionally provide that  
11 Section 101(i) of the Internal Revenue Code shall apply to any  
12 astronaut whose death occurs in the line of duty.

13 (2) The amendments made to this section by the act adding  
14 this subdivision shall apply to amounts paid after December 31,  
15 2002, with respect to deaths occurring after that date.

16 *SEC. 11. Section 17137 of the Revenue and Taxation Code is  
17 repealed.*

18 ~~17137. Section 137 of the Internal Revenue Code, relating to  
19 adoption assistance programs, is modified to include the  
20 amendments made by Section 202 of the Economic Growth and  
21 Tax Relief Act of 2001 (Public Law 107-16).~~

22 *SEC. 12. Section 17139.6 is added to the Revenue and  
23 Taxation Code, to read:*

24 *17139.6. Section 139A of the Internal Revenue Code, relating  
25 to federal subsidies for prescription drug plans, shall not apply.*

26 *SEC. 13. Section 17140 of the Revenue and Taxation Code is  
27 amended to read:*

28 17140. (a) For purposes of this section, the following terms  
29 have the following meanings as provided in the Golden State  
30 Scholarshare Trust Act (Article 19 (commencing with Section  
31 69980) of Chapter 2 of Part 42 of the Education Code):

32 (1) "Beneficiary" has the meaning set forth in subdivision (c)  
33 of Section 69980 of the Education Code.

34 (2) "Benefit" has the meaning set forth in subdivision (d) of  
35 Section 69980 of the Education Code.

36 (3) "Participant" has the meaning set forth in subdivision (h)  
37 of Section 69980 of the Education Code.

38 (4) "Participation agreement" has the meaning set forth in  
39 subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) ~~Except~~ *For taxable years beginning before January 1, 2002, except* as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

~~(e) (1)~~

*(c) For taxable years beginning before January 1, 2002:*

(1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, “distribution” includes any benefit furnished to a beneficiary under a participation

agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (P.L. 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a “member of the family,” as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (P.L. 105-34), of the former beneficiary of that Scholarshare trust.

(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, ~~as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)~~, shall apply in lieu of subdivisions (b) and (c) of this section, *except as otherwise provided in Part 11 (commencing with Section 23001) and this part.*

*SEC. 14. Section 17140.3 of the Revenue and Taxation Code is amended to read:*

17140.3. Section 529 of the Internal Revenue Code, ~~as amended by Section 402 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 417 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)~~, relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529 (a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under this part and Part 11 (commencing with Section 23001)” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

*SEC. 15. Section 17144 of the Revenue and Taxation Code is amended to read:*

17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting “this part” in lieu of “Section 38 (relating to general business credit).”

(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.

(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33 ⅓ cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.

(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “(\$9)” in lieu of “(\$3).”

(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.

(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(c) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.

~~(f) The amendments made to Section 108(d)(7)(A) of the Internal Revenue Code, relating to certain provisions to be applied at the corporate level, by Section 402 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply to discharges of indebtedness after December 31, 2001, in taxable years ending after that date. This subdivision shall not apply to any discharge of indebtedness made before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.~~

1     *SEC. 16. Section 17144.5 of the Revenue and Taxation Code*  
2     *is repealed.*

3     ~~17144.5. (a) Section 132 of the Internal Revenue Code, as~~  
4     ~~amended by Title VI of the Economic Growth and Tax Relief~~  
5     ~~Reconciliation Act of 2001 (Public Law 107-16), and as~~  
6     ~~amended by Section 103 of the Military Family Tax Relief Act of~~  
7     ~~2003 (Public Law 108-121), shall apply except as otherwise~~  
8     ~~provided.~~

9     ~~(b) The amendments made to this section by the act adding~~  
10    ~~this subdivision shall apply to payments made after November~~  
11    ~~11, 2003.~~

12    *SEC. 17. Section 17152 of the Revenue and Taxation Code is*  
13    *amended to read:*

14    17152. Section 121 of the Internal Revenue Code, relating to  
15    exclusion of gain from sale of principal residence, is modified as  
16    follows:

17    (a) The two-year period in Section 121(a) of the Internal  
18    Revenue Code shall be reduced by the period of the taxpayer's  
19    service, not to exceed 18 months, in the Peace Corps during the  
20    five-year period ending on the date of the sale or exchange.

21    (b) If the taxpayer is prohibited from filing a joint return  
22    pursuant to Section 18521, Section 121(b)(2)(A) of the Internal  
23    Revenue Code shall nevertheless be treated as being satisfied if  
24    the taxpayer files a joint return for federal income tax purposes  
25    for the same taxable year. However, in no instance shall the total  
26    amount excludable from gross income under Section 121(a) of  
27    the Internal Revenue Code with respect to any sale or exchange  
28    exceed the maximum amount allowed by Section 121(b) of the  
29    Internal Revenue Code.

30    (c) (1) If a taxpayer has, at any time, made an election for  
31    federal purposes under Section 121(f) of the Internal Revenue  
32    Code not to have Section 121 of the Internal Revenue Code apply  
33    to a sale or exchange, Section 121 of the Internal Revenue Code  
34    shall not apply to that sale or exchange for state purposes, a  
35    separate election for state purposes shall not be allowed under  
36    paragraph (3) of subdivision (e) of Section 17024.5, the federal  
37    election shall be binding for purposes of this part, and that  
38    election shall be treated as an election to include in gross income  
39    for purposes of this part all the gain from the sale or exchange of  
40    that property, including that amount which, but for that election,

1 would have been excluded from income under Section 121(a) of  
2 the Internal Revenue Code for state purposes.

3 (2) If a taxpayer fails to make an election for federal purposes  
4 under Section 121(f) of the Internal Revenue Code to not have  
5 Section 121 of the Internal Revenue Code apply to a sale or  
6 exchange, no election under Section 121(f) of the Internal  
7 Revenue Code shall be allowed for state purposes, Section 121 of  
8 the Internal Revenue Code shall apply to that sale or exchange  
9 for state purposes, and a separate election for state purposes shall  
10 not be allowed under paragraph (3) of subdivision (e) of Section  
11 17024.5.

12 (d) (1) If a taxpayer has, at any time, made an election for  
13 federal purposes under Section 312(d)(2) of the Taxpayer Relief  
14 Act of 1997 (Public Law 105-34), relating to sales before date of  
15 enactment, or Section 312(d)(4) of that act, relating to binding  
16 contracts, to not have the amendments made by Section 312 of  
17 the Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a  
18 sale or exchange, the amendments made by the act adding this  
19 subdivision shall not apply to that sale or exchange, Sections 1,  
20 4, and 6 of Chapter 610 of the Statutes of 1997 shall not apply to  
21 that sale or exchange, a separate election for state purposes shall  
22 not be allowed under paragraph (3) of subdivision (e) of Section  
23 17024.5, and the federal election shall be binding for purposes of  
24 this part.

25 (2) If a taxpayer fails to make an election for federal purposes  
26 under Section 312(d)(2) of the Taxpayer Relief Act of 1997  
27 (Public Law 105-34), relating to sales before date of enactment,  
28 or Section 312(d)(4) of that act, relating to binding contracts, to  
29 not have the amendments made by Section 312 of the Taxpayer  
30 Relief Act of 1997 (Public Law 105-34) apply to a sale or  
31 exchange, an election under Section 312(d)(2) of the Taxpayer  
32 Relief Act of 1997 (Public Law 105-34), relating to sales before  
33 date of enactment, or Section 312(d)(4) of that act, relating to  
34 binding contracts, shall not be allowed for state purposes, the  
35 amendments made by the act adding this subdivision shall apply  
36 to that sale or exchange, Sections 1, 4, and 6 of Chapter 610 of  
37 the Statutes of 1997 shall apply to that sale or exchange, and a  
38 separate election for state purposes shall not be allowed under  
39 paragraph (3) of subdivision (e) of Section 17024.5.

~~(e) (1) At the election of an individual, the running of the five-year period described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code shall be suspended during any period that the individual or the individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.~~

~~(2) The five-year period described in Section 121(a) of the Internal Revenue Code shall not be extended more than 10 years by reason of paragraph (1).~~

~~(3) For purposes of this subdivision:~~

~~(A) The term "qualified official extended duty" means any extended duty while serving at a duty station which is at least 50 miles from that property or while residing under government orders in government quarters.~~

~~(B) The term "uniformed services" has the same meaning given that term by Section 101(a)(5) of Title 10 of the United States Code, as in effect on November 11, 2003.~~

~~(C) The term "member of the Foreign Service of the United States" has the same meaning given the term "member of the service" by paragraph (1), (2), (3), (4), or (5) of Section 103 of the Foreign Service Act of 1980, as in effect on November 11, 2003.~~

~~(D) The term "extended duty" means any period of active duty pursuant to a call or order to that duty for a period in excess of 90 days or for an indefinite period.~~

~~(4) (A) An election under paragraph (1) with respect to any property may not be made if that election is in effect with respect to any other property.~~

~~(B) An election under paragraph (1) may be revoked at any time.~~

~~(C) If~~

~~(e) (1) If a taxpayer has, at any time, made or revoked an election for federal purposes under Section 121(d)(9) of the Internal Revenue Code, as added by the Military Family Tax Relief Act of 2003 (Public Law 108-121), to suspend the running of the five-year period described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that election or revocation of election to suspend the five-year period under this subdivision Section 121(d)(9) of the Internal Revenue Code shall be applicable for state purposes, a separate election or~~

1 revocation of election for purposes of ~~this subdivision~~ *Section*  
2 *121(d)(9) of the Internal Revenue Code* may not be allowed  
3 under paragraph (3) of subdivision (e) of Section 17024.5, and  
4 the federal election or revocation of election shall be binding for  
5 purposes of this part.

6 ~~(D)~~

7 (2) If a taxpayer fails to make an election for federal purposes  
8 under Section 121(d)(9) of the Internal Revenue Code to suspend  
9 the running of the five-year period described in Sections 121(a),  
10 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that  
11 five-year period may not be suspended under ~~this subdivision~~  
12 *with respect Section 121(d)(9) of the Internal Revenue Code* for  
13 state purposes, and a separate election for state purposes shall not  
14 be allowed under paragraph (3) of subdivision (e) of Section  
15 17024.5.

16 ~~(5) (A) The amendments made to this section by the act~~  
17 ~~adding this subdivision shall be applied in the same manner and~~  
18 ~~for the same periods as specified in the Military Family Tax~~  
19 ~~Relief Act of 2003 (Public Law 108-121).~~

20 ~~(B) If a refund or credit of any overpayment of tax resulting~~  
21 ~~from the amendments made by the act adding this subdivision is~~  
22 ~~prevented at any time before the close of the one-year period~~  
23 ~~beginning on November 11, 2003, by the operation of any law or~~  
24 ~~rule of law (including res judicata), that refund or credit may~~  
25 ~~nevertheless be made or allowed if the claim therefor is filed~~  
26 ~~before the close of that period.~~

27 ~~(f) Section 121(d)(10) of the Internal Revenue Code, relating~~  
28 ~~to property acquired from a decedent, shall not apply.~~

29 *SEC. 18. Section 17160.5 of the Revenue and Taxation Code*  
30 *is repealed.*

31 ~~17160.5. (a) (1) Section 134 of the Internal Revenue Code,~~  
32 ~~relating to certain military benefits, is modified to additionally~~  
33 ~~provide that Section 134(b)(3)(A) of the Internal Revenue Code~~  
34 ~~shall not apply to any adjustment to the amount of death gratuity~~  
35 ~~payable under Chapter 75 of Title 10 of the United States Code,~~  
36 ~~which is pursuant to a provision of law enacted after September~~  
37 ~~9, 1986.~~

38 ~~(2) This subdivision shall apply with respect to deaths~~  
39 ~~occurring after September 10, 2001.~~



~~(b) (1) Section 134(b) of the Internal Revenue Code, defining qualified military benefit, is modified to provide that for purposes of Section 134(b)(1) of the Internal Revenue Code, the term “qualified military benefit” includes any dependent care assistance program (as in effect on November 11, 2003) for any individual described in Section 134(b)(1)(A) of the Internal Revenue Code.~~

~~(2) This subdivision shall apply to taxable years beginning after December 31, 2002.~~

~~(3) No inference may be drawn from the amendments made by the act adding this subdivision with respect to the tax treatment of any amount under the program described in paragraph (1) for any taxable year beginning before January 1, 2003.~~

*SEC. 19. Section 17201.4 is added to the Revenue and Taxation Code, to read:*

*17201.4. Section 179B of the Internal Revenue Code, relating to deductions for capital costs incurred in complying with Environmental Protection Agency sulfur regulations, shall not apply.*

*SEC. 20. Section 17201.5 is added to the Revenue and Taxation Code, to read:*

*17201.5. Section 181 of the Internal Revenue Code, relating to treatment of certain qualified film and television productions, shall not apply.*

*SEC. 21. Section 17201.6 is added to the Revenue and Taxation Code, to read:*

*17201.6. Section 199 of the Internal Revenue Code, relating to income attributable to domestic production activities, shall not apply.*

*SEC. 22. Section 17202.5 of the Revenue and Taxation Code is repealed.*

~~17202.5. (a) Section 162 of the Internal Revenue Code, relating to trade or business expenses, is modified to additionally provide that for purposes of Section 162(a)(2) of the Internal Revenue Code, in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, the individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which the individual is away from home in connection with that service.~~

~~(b) This section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.~~

SEC. 23. Section 17204 of the Revenue and Taxation Code is amended to read:

17204. (a) Section 221 of the Internal Revenue Code, ~~as added by Section 202 of the Taxpayer Relief Act of 1997 (P.L. 105-34)~~, relating to interest on education loans, ~~shall apply for any taxable year beginning on or after January 1, 1998~~ is modified to additionally provide that a deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months, whether or not consecutive, in which interest payments are required. For purposes of this subdivision, any loan and period shall be determined in the form and manner prescribed in forms and instructions by the Franchise Tax Board in the case of multiple loans that are refinanced by, or serviced as, a single loan and in the case of loans incurred before January 1, 2005.

(b) (1) Section 221(b)(2)(B)(i)(I) of the Internal Revenue Code is modified by substitution the phrase “\$40,000 (\$60,000 in the case of a joint return)” in lieu of the phrase “\$50,000 (\$100,000 in the case of a joint return)” contained therein.

(2) Section 221(b)(2)(B)(ii) of the Internal Revenue Code is modified by substituting the phrase “\$15,000” in lieu of the phrase “\$15,000 (\$30,000 in the case of a joint return)” contained therein.

(3) Section 221(f)(1) of the Internal Revenue Code is modified by substituting the phrase “\$40,000 and \$60,000 amounts” in lieu of the phrase “\$50,000 and \$100,000 amounts” contained therein.

SEC. 24. Section 17204.7 is added to the Revenue and Taxation Code, to read:

17204.7. Section 222 of the Internal Revenue Code, relating to qualified tuition and related expenses, shall not apply.

SEC. 25. Section 17205 of the Revenue and Taxation Code, as added by Section 14 of Chapter 34 of the Statutes of 2002, is repealed.

~~17205. Section 219 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), relating to retirement savings, shall apply, except as otherwise provided.~~

1     *SEC. 26. Section 17205 of the Revenue and Taxation Code,*  
2     *as added by Section 14 of Chapter 35 of the Statutes of 2002, is*  
3     *repealed.*

4     ~~17205. Section 219 of the Internal Revenue Code, as~~  
5     ~~amended by Title VI of the Economic Growth and Tax Relief~~  
6     ~~Reconciliation Act of 2001 (Public Law 107-16), relating to~~  
7     ~~retirement savings, shall apply, except as otherwise provided.~~

8     *SEC. 27. Section 17220 of the Revenue and Taxation Code is*  
9     *amended to read:*

10    17220. (a) Section 164(a)(3) of the Internal Revenue Code,  
11    relating to the deductibility of state, local, and foreign income,  
12    war profits, and excess profits taxes, shall not apply.

13    (b) *Section 164(b)(5) of the Internal Revenue Code, relating to*  
14    *general sales taxes, shall not apply.*

15    ~~(b)~~

16    (c) In addition to the provisions of Section 164(c) of the  
17    Internal Revenue Code, relating to deduction denied in case of  
18    certain taxes, no deduction shall be allowed for any tax imposed  
19    under Chapter 10.5 (commencing with Section 17935), Chapter  
20    10.6 (commencing with Section 17941), or Chapter 10.7  
21    (commencing with Section 17951) of this part or under Part 11  
22    (commencing with Section 23001).

23    *SEC. 28. Section 17250 of the Revenue and Taxation Code is*  
24    *amended to read:*

25    17250. (a) Section 168 of the Internal Revenue Code is  
26    modified as follows:

27    (1) Any reference to “tax imposed by this chapter” in Section  
28    168 of the Internal Revenue Code means “net tax,” as defined in  
29    Section 17039.

30    (2) (A) Section 168(e)(3) is modified to provide that any  
31    grapevine, replaced in a vineyard in California in any taxable  
32    year beginning on or after January 1, 1992, as a direct result of a  
33    phylloxera infestation in that vineyard, or replaced in a vineyard  
34    in California in any taxable year beginning on or after January 1,  
35    1997, as a direct result of Pierce’s Disease in that vineyard, shall  
36    be “five-year property,” rather than “10-year property.”

37    (B) Section 168(g)(3) of the Internal Revenue Code is  
38    modified to provide that any grapevine, replaced in a vineyard in  
39    California in any taxable year beginning on or after January 1,  
40    1992, as a direct result of a phylloxera infestation in that

1 vineyard, or replaced in a vineyard in California in any taxable  
2 year beginning on or after January 1, 1997, as a direct result of  
3 Pierce's Disease in that vineyard, shall have a class life of 10  
4 years.

5 (C) Every taxpayer claiming a depreciation deduction with  
6 respect to grapevines as described in this paragraph shall obtain a  
7 written certification from an independent state-certified  
8 integrated pest management adviser, or a state agricultural  
9 commissioner or adviser, that specifies that the replanting was  
10 necessary to restore a vineyard infested with phylloxera or  
11 Pierce's Disease. The taxpayer shall retain the certification for  
12 future audit purposes.

13 (3) Section 168(j) of the Internal Revenue Code, relating to  
14 property on Indian reservations, shall not apply.

15 (4) *Section 168(k) of the Internal Revenue Code shall not*  
16 *apply.*

17 (5) *Sections 168(b)(3)(G) and 168(b)(3)(H) of the Internal*  
18 *Revenue Code shall not apply.*

19 (6) *Sections 168(e)(3)(E)(iv) and 168(e)(3)(E)(v) of the*  
20 *Internal Revenue Code shall not apply.*

21 (7) *Sections 168(e)(6) and 168(e)(7) of the Internal Revenue*  
22 *Code shall not apply.*

23 (b) Section 169 of the Internal Revenue Code, relating to  
24 amortization of pollution control facilities, is modified as  
25 follows:

26 (1) The deduction allowed by Section 169 of the Internal  
27 Revenue Code shall be allowed only with respect to facilities  
28 located in this state.

29 (2) The "state certifying authority," as defined in Section  
30 169(d)(2) of the Internal Revenue Code, means the State Air  
31 Resources Board, in the case of air pollution, and the State Water  
32 Resources Control Board, in the case of water pollution.

33 *SEC. 29. Section 17250.5 of the Revenue and Taxation Code*  
34 *is amended to read:*

35 17250.5. Section 167(g) of the Internal Revenue Code,  
36 relating to depreciation under income forecast method, shall be  
37 modified as follows:

38 (a) Section 167(g)(2)(C) of the Internal Revenue Code is  
39 modified by substituting "Section 19521" in lieu of "Section  
40 460(b)(7)" of the Internal Revenue Code.

(b) Section 167(g)(5)(D) of the Internal Revenue Code is modified by substituting “Part 10.2 (commencing with Section 18401) (other than Section 19136)” in lieu of “Subtitle F (other than Sections 6654 and 6655)”.

(c) Section 167(g)(5)(E) of the Internal Revenue Code shall not apply.

(d) Section 167(g)(7) of the Internal Revenue Code shall not apply.

SEC. 30. Section 17255 of the Revenue and Taxation Code is amended to read:

17255. (a) Section 179(b)(1) of the Internal Revenue Code, relating to dollar limitation, ~~is modified to provide that, if the taxable year begins in 1997, the applicable amount is thirteen thousand dollars (\$13,000) in lieu of eighteen thousand dollars (\$18,000), and if the taxable year begins in 1998, the applicable amount is sixteen thousand dollars (\$16,000) in lieu of eighteen thousand five hundred dollars (\$18,500) shall not apply and in lieu thereof, the aggregate cost which may be taken into account under Section 179 (a) of the Internal Revenue Code for any taxable year shall not exceed twenty-five thousand dollars (\$25,000).~~

(b) Section 179(b)(2) of the Internal Revenue Code, relating to reduction in limitation, shall not apply and in lieu thereof, the limitation under subdivision (a) for any taxable year shall be reduced, but not to below zero, by the amount by which the cost of Section 179 property, as defined in Section 179(d)(1) of the Internal Revenue Code, except as otherwise provided, placed in service during the taxable year exceeds two hundred thousand dollars (\$200,000).

~~(b)~~

(c) Section 179 of the Internal Revenue Code is modified to provide that the “aggregate amount disallowed” referred to in Section 179(b)(3)(B) of the Internal Revenue Code shall be computed under this part as it read on the date the property generating the amount disallowed was placed in service.

(d) Section 179(b)(5) of the Internal Revenue Code, relating to inflation adjustments, shall not apply.

(e) The last sentence in Section 179(c)(2) of the Internal Revenue Code, relating to election irrevocable, shall not apply.

1 (f) Section 179(d)(1)(A)(ii) of the Internal Revenue Code,  
2 relating to computer software, shall not apply.

3 SEC. 31. Section 17255.5 is added to the Revenue and  
4 Taxation Code, to read:

5 17255.5. (a) A small refiner (as defined in Section 17053.62)  
6 may elect to treat 75 percent of qualified capital costs (as defined  
7 in paragraph (2) of subdivision (c) of Section 17053.62) for items  
8 that are placed in service by the taxpayer during the taxable year  
9 as expenses that are not chargeable to capital account. Any cost  
10 so treated shall be allowed as a deduction for the taxable year in  
11 which paid or incurred.

12 (b) (1) For purposes of this part, the basis of any property  
13 shall be reduced by the portion of the cost of that property taken  
14 into account under subdivision (a).

15 (2) For purposes of Section 1245 of the Internal Revenue  
16 Code, and corresponding section of this code, the amount of the  
17 deduction allowable under subdivision (a) with respect to any  
18 property which is of a character subject to the allowance for  
19 depreciation shall be treated as a deduction allowed for  
20 depreciation under Section 167 of the Internal Revenue Code, or  
21 the corresponding section of this code.

22 (c) This section shall remain in effect only until January 1,  
23 2009, and as of that date is repealed.

24 SEC. 32. Section 17256 of the Revenue and Taxation Code is  
25 amended to read:

26 17256. Section 179A of the Internal Revenue Code, relating  
27 to deduction for clean-fuel vehicles and certain refueling  
28 property, shall apply to property placed in service after June 30,  
29 1993, without regard to taxable year, and is modified as follows:  
30 not apply.

31 ~~(a) Section 179A(c)(5) of the Internal Revenue Code, relating~~  
32 ~~to property used outside the United States, is modified to also~~  
33 ~~refer to Section 17266 or 17267.2.~~

34 ~~(b) Section 179A(g) of the Internal Revenue Code, relating to~~  
35 ~~termination, is modified to substitute "December 31, 1994" for~~  
36 ~~"December 31, 2004."~~

37 SEC. 33. Section 17279.4 of the Revenue and Taxation Code  
38 is amended to read:

17279.4. Section 198 of the Internal Revenue Code, relating to expensing of environmental remediation costs, is modified as follows:

~~(a) (1) —~~

*(a) For expenditures paid or incurred before January 1, 2004, all of the following shall apply:*

*(1) If a taxpayer has, at any time, made an election for federal purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, Section 198 of the Internal Revenue Code shall apply to that qualified environmental remediation expenditure for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election shall be binding for purposes of this part.*

*(2) If a taxpayer fails to make an election for federal purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, an election under Section 198(a) of the Internal Revenue Code shall not be allowed for state purposes, Section 198 of the Internal Revenue Code shall not apply to that qualified environmental remediation expenditure for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.*

*(b) No inference as to the proper treatment for purposes of this part of qualified environmental remediation expenditures for periods before the enactment of this section shall be made.*

*(c) Section 198(h) of the Internal Revenue Code shall not apply.*

*(d) Section 198 of the Internal Revenue Code shall not apply to expenditures paid or incurred after December 31, 2003.*

*SEC. 34. Section 17501 of the Revenue and Taxation Code is amended to read:*

17501. (a) Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to deferred compensation, shall apply, except as otherwise provided.

(b) Notwithstanding *the specified date contained in paragraph (1) of subdivision (a) of Section 17024.5*, Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating

1 to pension, profitsharing, stock bonus plans, etc., shall apply,  
2 except as otherwise provided, without regard to taxable year to  
3 the same extent as applicable for federal *income tax* purposes.

4 (c) The maximum amount of elective deferrals (as defined in  
5 Section 402(g)(3)) for the taxable year that may be excluded  
6 from gross income under Section 402(g) of the Internal Revenue  
7 Code, as applicable for state purposes, shall not exceed the  
8 amount of elective deferrals that may be excluded from gross  
9 income under Section 402(g) of the Internal Revenue Code, as  
10 amended by Title VI of the Economic Growth and Tax Relief  
11 Reconciliation Act of 2001 (Public Law 107-16) and Section 411  
12 of the Job Creation and Worker Assistance Act of 2002 (Public  
13 Law 107-147), including additional elective deferrals under  
14 Section 414(v) of the Internal Revenue Code, as added by Title  
15 VI of the Economic Growth and Tax Relief Reconciliation Act of  
16 2001 (Public Law 107-16) and as amended by Section 411 of the  
17 Job Creation and Worker Assistance Act of 2002 (Public Law  
18 107-147).

19 (d) (1) For taxable years beginning on or after January 1,  
20 2002, the basis of any person in the plan, account, or annuity  
21 shall be increased by the amount of elective deferrals not  
22 excluded as a result of the application of subdivision (c).

23 (2) Any basis described in paragraph (1) shall be recovered in  
24 the manner specified in Section 17085.

25 (e) Notwithstanding the limitations provided in subdivision  
26 (c), any income attributable to elective deferrals in taxable years  
27 beginning on or after January 1, 2002, in conformance with Part  
28 I of Subchapter D of Chapter 1 of Subtitle A of the Internal  
29 Revenue Code, as applicable for federal and state purposes, shall  
30 not be includable in the gross income of the individual for whose  
31 benefit the plan or account was established until distributed  
32 pursuant to the plan or by operation of law.

33 *SEC. 35. Section 17551 of the Revenue and Taxation Code is*  
34 *amended to read:*

35 17551. (a) Subchapter E of Chapter 1 of Subtitle A of the  
36 Internal Revenue Code, relating to accounting periods and  
37 methods of accounting, shall apply, except as otherwise  
38 provided.

39 (b) Section 444(c)(1) of the Internal Revenue Code, relating to  
40 effect of election, shall not apply.



(c) (1) Notwithstanding *the specified date contained in paragraph (1) of subdivision (a) of Section 17024.5, Section 457 of the Internal Revenue Code, relating to deferred compensation plans of state and local governments and tax-exempt organizations, shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal income tax purposes.*

(2) The maximum deferred compensation for the taxable year that may be excluded from gross income under Section 457 of the Internal Revenue Code, as applicable for state purposes, shall not exceed the amount of deferred compensation that may be excluded from gross income under Section 457 of the Internal Revenue Code, as amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and as amended by Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan shall be increased by the amount of compensation not allowed to be excluded under subdivision (a).

(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (a), any income attributable to compensation deferred in a plan in taxable years beginning on or after January 1, 2002, in conformance with Section 457 of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(f) *Section 451(i) of the Internal Revenue Code, relating to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy, shall not apply.*

1     *SEC. 36. Section 17561 of the Revenue and Taxation Code is*  
2     *amended to read:*

3     17561. ~~(a) Section 469(e)(7) of the Internal Revenue Code,~~  
4     ~~relating to special rules for taxpayers in real property business,~~  
5     ~~shall not apply.~~

6     ~~(b)~~

7     (a) Section 469(d)(2) of the Internal Revenue Code, relating to  
8     passive activity credits, is modified to refer to the following  
9     credits:

10    (1) The credit for research expenses allowed by Section  
11    17052.12.

12    (2) The credit for certain wages paid (targeted jobs) allowed  
13    by Section 17053.7.

14    (3) The credit for clinical testing expenses allowed by Section  
15    17057.

16    (4) The credit for low-income housing allowed by Section  
17    17058.

18    ~~(e)~~

19    (b) Section 469(g)(1)(A) of the Internal Revenue Code is  
20    modified to provide that if all gain or loss realized on the  
21    disposition of the taxpayer's entire interest in any passive activity  
22    (or former passive activity) is recognized, the excess of—

23    (1) The sum of—

24    (A) Any loss from that activity for that taxable year  
25    (determined after application of Section 469(b) of the Internal  
26    Revenue Code), plus

27    (B) Any loss realized on that disposition, over

28    (2) Net income or gain for the taxable year from all passive  
29    activities (determined without regard to losses described in  
30    paragraph (1)),

31    shall be treated as a loss which is not from a passive activity.

32    ~~(d)~~

33    (c) For purposes of applying the provisions of Section 469(i)  
34    of the Internal Revenue Code, relating to the twenty-five  
35    thousand dollars (\$25,000) offset for rental real estate activities,  
36    the dollar limitation for the credit allowed under Section 17058  
37    (relating to low-income housing) shall be equal to seventy-five  
38    thousand dollars (\$75,000) in lieu of the amount specified in  
39    Section 469(i)(2) of the Internal Revenue Code.

40    ~~(e)~~

(d) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

(f)

(e) For taxable years beginning on or after January 1, 1987, the provisions of Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall be applicable.

SEC. 37. Section 17681.6 is added to the Revenue and Taxation Code, to read:

17681.6. Section 613A(c)(6)(H) of the Internal Revenue Code, relating to temporary suspension of taxable income limit with respect to marginal production, shall not apply.

SEC. 38. Section 17731 of the Revenue and Taxation Code is amended to read:

17731. (a) Subchapter J of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to estates, trusts, beneficiaries, and decedents, shall apply, except as otherwise provided.

~~(b) (1) The amendments made to Section 692 of the Internal Revenue Code by Sections 101 and 113 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134) shall apply to the same periods as applied under federal law, except as otherwise provided.~~

~~(2)~~

(b) Section 692(d)(2) of the Internal Revenue Code, relating to the ten-thousand-dollar (\$10,000) minimum benefit, does not apply.

~~(c) If a refund or a credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the one-year period beginning on the date of enactment of this act by the operation of any law or rule of law (including res judicata), that refund or credit may nevertheless be made or allowed if a claim therefor is filed on or before the close of that one-year period.~~

~~(d) (1) Section 692(d) of the Internal Revenue Code is modified to additionally provide that Section 692(d) of the Internal Revenue Code, as modified by paragraph (1) of subdivision (b), applies to any astronaut whose death occurs in the line of duty, except that Section 692(d)(3)(B) of the Internal Revenue Code shall be applied by using the date of the death of the astronaut rather than September 11, 2001.~~

~~(2) The amendments made to this section by the act adding this subdivision shall apply with respect to any astronaut whose death occurs after December 31, 2002.~~

SEC. 39. Section 17760 is added to the Revenue and Taxation Code, to read:

17760. Section 684 of the Internal Revenue Code shall not apply.

SEC. 40. Section 18035.6 is added to the Revenue and Taxation Code, to read:

18035.6. Section 1014 of the Internal Revenue Code, relating to basis of property acquired from a decedent, is modified to provide that Section 1014(f) of the Internal Revenue Code, relating to termination date, shall not apply.

SEC. 41. Section 18036.6 is added to the Revenue and Taxation Code, to read:

18036.6. Section 1022 of the Internal Revenue Code, relating to treatment of property acquired from a decedent dying after December 31, 2009, shall not apply.

SEC. 42. Section 18571 of the Revenue and Taxation Code is amended to read:

18571. (a) The provisions of Section 7508 of the Internal Revenue Code, relating to time for performing certain acts postponed by reason of service in a combat zone or contingency operation, shall apply except as otherwise provided.

(b) Section 7508(e)(1) of the Internal Revenue Code, relating to tax in jeopardy, etc., is modified to refer to jeopardy assessments and liens authorized under this part, in lieu of the references to Section 6851 and Chapter 70 or 71 of the Internal Revenue Code.

(c) Notwithstanding Section 17034, this section shall be operative without regard to taxable years and shall be operative with respect to any actions specified in Section 18570 that are required or permitted to be taken on or after August 2, 1990.

~~(d) (1) Section 7508(a) of the Internal Revenue Code, relating to time to be disregarded, is additionally modified by all of the following:~~

~~(A) Substituting the phrase “section 112, or when deployed outside the United States away from the individual’s permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in~~

1 ~~Section 101(a)(13) of title 10, United States Code) or which~~  
2 ~~became such a contingency operation by operation of law” for~~  
3 ~~the phrase “section 112” contained therein.~~

4 ~~(B) Substituting the phrase “for purposes of such section or at~~  
5 ~~any time during the period of such contingency operation” for the~~  
6 ~~phrase “for purposes of such section” contained therein.~~

7 ~~(C) Substituting the phrase “such an area or operation” for the~~  
8 ~~phrase “such an area” contained therein.~~

9 ~~(D) Substituting the phrase “such area or operation” for the~~  
10 ~~phrase “such area” contained therein.~~

11 ~~(2) Section 7508(d) of the Internal Revenue Code, relating to~~  
12 ~~missing status, is additionally modified by substituting the phrase~~  
13 ~~“area or contingency operation” for the phrase “area” contained~~  
14 ~~therein.~~

15 ~~(3) The amendments made to this section by the act adding~~  
16 ~~this subdivision shall apply to any period for performing an act~~  
17 ~~which has not expired before November 11, 2003.~~

18 *SEC. 43. Section 18572 of the Revenue and Taxation Code is*  
19 *amended to read:*

20 18572. ~~(a)~~ Section 7508A of the Internal Revenue Code,  
21 relating to postponement of certain tax related deadlines, shall  
22 apply, except as otherwise provided.

23 ~~(b) The amendments made to Section 7508A of the Internal~~  
24 ~~Revenue Code by Section 112 of the Victims of Terrorism Tax~~  
25 ~~Relief Act of 2001 (Public Law 107-134) shall apply to disasters~~  
26 ~~and terroristic or military actions occurring on or after September~~  
27 ~~11, 2001, with respect to any action of the Secretary of the~~  
28 ~~Treasury, the Secretary of Labor, or the Pension Benefit~~  
29 ~~Guaranty Corporation occurring on or after January 23, 2002.~~

30 *SEC. 44. Section 18633 of the Revenue and Taxation Code is*  
31 *amended to read:*

32 18633. (a) (1) Every partnership, on or before the fifteenth  
33 day of the fourth month following the close of its taxable year,  
34 shall make a return for that taxable year, stating specifically the  
35 items of gross income and the deductions allowed by Part 10  
36 (commencing with Section 17001). Except as otherwise provided  
37 in Section 18621.5, the return shall include the names, addresses,  
38 and taxpayer identification numbers of the persons, whether  
39 residents or nonresidents, who would be entitled to share in the  
40 net income if distributed and the amount of the distributive share

1 of each person. The return shall contain or be verified by a  
2 written declaration that it is made under penalty of perjury,  
3 signed by one of the partners.

4 (2) In addition to returns required by paragraph (1), every  
5 limited partnership subject to the tax imposed by subdivision (b)  
6 of Section 17935, on or before the fifteenth day of the fourth  
7 month following the close of its taxable year, shall make a return  
8 for that taxable year, containing the information identified in  
9 paragraph (1). In the case of a limited partnership not doing  
10 business in this state, the Franchise Tax Board shall prescribe the  
11 manner and extent to which the information identified in  
12 paragraph (1) shall be included with the return required by this  
13 paragraph.

14 (b) Each partnership required to file a return under subdivision  
15 (a) for any taxable year shall (on or before the day on which the  
16 return for that taxable year was required to be filed) furnish to  
17 each person who is a partner or who holds an interest in that  
18 partnership as a nominee for another person at any time during  
19 that taxable year a copy of the information required to be shown  
20 on that return as may be required by regulations.

21 (c) Any person who holds an interest in a partnership as a  
22 nominee for another person shall do both of the following:

23 (1) Furnish to the partnership, in the manner prescribed by the  
24 Franchise Tax Board, the name, address, and taxpayer  
25 identification number of that other person, and any other  
26 information for that taxable year as the Franchise Tax Board may  
27 by form and regulation prescribe.

28 (2) Furnish to that other person, in the manner prescribed by  
29 the Franchise Tax Board, the information provided by that  
30 partnership under subdivision (b).

31 (d) The provisions of Section 6031(d) of the Internal Revenue  
32 Code, relating to the separate statement of items of unrelated  
33 business taxable income, shall apply.

34 (e) *The provisions of Section 6031(f) of the Internal Revenue*  
35 *Code, relating to electing investment partnerships, shall apply,*  
36 *except as otherwise provided.*

37 *SEC. 45. Section 19008 of the Revenue and Taxation Code is*  
38 *amended to read:*

39 19008. (a) The Franchise Tax Board may, in cases of  
40 financial hardship, as determined by the Franchise Tax Board,

allow an individual or fiduciary to enter into installment payment agreements with the Franchise Tax Board to ~~pay~~ *make payments* on taxes due, plus applicable interest and penalties over the life of the installment period. Failure by an individual or fiduciary to comply fully with the terms of the installment payment agreement shall render the agreement null and void, unless the Franchise Tax Board determines that the failure was due to a reasonable cause, and the total amount of tax, interest, and all penalties shall be immediately due and payable.

(b) In the case of a liability for tax of an individual under Part 10 (commencing with Section 17001) or this part, the Franchise Tax Board shall enter into an agreement to accept the *full* payment of the tax in installments if, as of the date the individual offers to enter into the agreement, all of the following apply:

(1) The aggregate amount of the liability (determined without regard to interest, penalties, additions to the tax and additional amounts) does not exceed ten thousand dollars (\$10,000).

(2) The taxpayer (and, if the liability relates to a joint return, the taxpayer's spouse) has not during any of the preceding five taxable years done any of the following:

(A) Failed to file any return of tax imposed under Part 10 (commencing with Section 17001) or this part.

(B) Failed to pay any tax required to be shown on the return.

(C) Entered into an installment agreement under this section for payment of any tax imposed by Part 10 (commencing with Section 17001) or this part.

(3) The Franchise Tax Board determines that the taxpayer is financially unable to pay the liability in full when due (and the taxpayer submits any information as the Franchise Tax Board may require to make this determination).

(4) The agreement requires full payment of the liability within three years.

(5) The taxpayer agrees to comply with the provisions of this part and Part 10 (commencing with Section 17001) for the period the agreement is in effect.

(c) Except in any case where the Franchise Tax Board finds collection of the tax to which an installment payment agreement relates to be in jeopardy, or there is a mutual consent to terminate, alter, or modify the agreement, the agreement shall not

1 be considered null and void, or otherwise terminated, unless both  
2 of the following occur:

3 (1) A notice of termination is provided to the individual or  
4 fiduciary not later than 30 days before the date of termination.

5 (2) The notice includes an explanation of why the Franchise  
6 Tax Board intends to terminate the agreement.

7 (d) No levy may be issued on the property or rights to property  
8 of any person with respect to any unpaid tax:

9 (1) During the period that an offer by the taxpayer for an  
10 installment agreement under this section for payment of the  
11 unpaid tax is pending with the Franchise Tax Board.

12 (2) If the offer is rejected by the Franchise Tax Board, during  
13 the 30 days thereafter (and, if a request for review of the rejection  
14 is filed within the 30 days, during the period that the review is  
15 pending).

16 (3) During the period that the installment agreement for  
17 payment of the unpaid tax is in effect.

18 (4) If the agreement is terminated by the Franchise Tax Board,  
19 during the 30 days thereafter (and, if a request for review of the  
20 termination is filed within the 30 days, during the period that the  
21 review is pending).

22 (5) This subdivision shall not apply with respect to any of the  
23 following:

24 (A) Any unpaid tax if either of the following occurs:

25 (i) The taxpayer files a written notice with the Franchise Tax  
26 Board that waives the restriction imposed by this subdivision on  
27 levy with respect to the tax.

28 (ii) The Franchise Tax Board finds that the collection of that  
29 tax is in jeopardy.

30 (B) Any levy that was first issued before the date that the  
31 applicable proceeding under this subdivision commenced.

32 (C) At the discretion of the Franchise Tax Board, any unpaid  
33 tax for which the taxpayer makes an offer of an installment  
34 agreement subsequent to a rejection of an offer of an installment  
35 agreement with respect to that unpaid tax (or to any review  
36 thereof).

37 (D) The period of limitation under Section 19371 shall be  
38 suspended for the period during which the Franchise Tax Board  
39 is prohibited under this subdivision from making a levy.



(e) The Taxpayers' Rights Advocate shall establish procedures for an independent departmental administrative review for the rejection of the offer of an installment payment and for installment payment agreements that are rendered null and void, or otherwise terminated under this section, for individuals or fiduciaries who request that review. This administrative review shall not be subject to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of the Government Code. Unless review is requested by the taxpayer within 30 days of the date of rejection of the offer of an installment agreement or termination of the installment agreement, this administrative review shall not stay collection of the tax to which the installment payment agreement relates.

~~(f) The amendments made by the act adding this subdivision are operative on the effective date of that act, except subdivision (d) shall be operative for any proposed installment agreement submitted after December 31, 2000. In the case of an agreement for partial payment of a tax liability entered into by the Franchise Tax Board pursuant to subdivision (a), the Franchise Tax Board shall review the agreement at least once every two years.~~

~~(g) The amendments made by the act adding this subdivision are operative for any proposed installment agreement submitted after the effective date of that act.~~

SEC. 46. Section 19041.5 of the Revenue and Taxation Code is amended to read:

19041.5. (a) Notwithstanding any other provision of this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001), ~~any amount paid as a tax or in respect of a tax that is paid after the mailing of a notice of proposed deficiency assessment and designated by the taxpayer as a deposit in the nature of a cash bond made to stop the running of interest, the provisions of Section 6603 of the Internal Revenue Code, relating to deposits made to suspend the running of interest on potential underpayments, shall apply except as otherwise provided. A deposit shall not be considered a payment of tax for purposes of filing a claim for refund pursuant to Section 19306, converting an administrative action to an action on a claim pursuant to Section 19335, or filing an action pursuant to Section 19384 until either of the following occurs:~~

1 (1) The taxpayer provides a written statement to the Franchise  
2 Tax Board specifying that the deposit shall be a payment of tax  
3 for purposes of Section 19306, 19335, or 19384.

4 ~~(2) The deficiency assessed becomes due and payable in~~  
5 ~~accordance with Section 19049 deposit is used to pay a final tax~~  
6 ~~liability.~~

7 ~~(b) The Franchise Tax Board may promulgate rules and~~  
8 ~~regulations to adopt applicable provisions of federal Revenue~~  
9 ~~Procedure 84-58, 1984-2 C.B. 501, for purposes of this section~~  
10 ~~Section 6603(d) of the Internal Revenue Code is modified to~~  
11 ~~substitute the phrase “notice of proposed deficiency assessment~~  
12 ~~under Article 3 of Chapter 4 of this part” for “30-day letter” in~~  
13 ~~each place that the phrase “30-day letter” appears.~~

14 *(c) In the case of an amount held by the Franchise Tax Board*  
15 *as a deposit in the nature of a cash bond pursuant to the*  
16 *provisions of this section prior to the amendments made by the*  
17 *act adding this subdivision, the date that the taxpayer identifies*  
18 *that amount as a deposit made pursuant to this section as*  
19 *amended by the act adding this subdivision shall be treated as*  
20 *the date that the amount is deposited for purposes of this section*  
21 *as amended by the act adding this subdivision.*

22 *SEC. 47. Section 19116 of the Revenue and Taxation Code is*  
23 *amended to read:*

24 19116. (a) In the case of an individual who files a return of  
25 tax imposed under Part 10 (commencing with Section 17001) for  
26 a taxable year on or before the due date for the return, including  
27 extensions, if the Franchise Tax Board does not provide a notice  
28 to the taxpayer specifically stating the taxpayer’s liability and the  
29 basis of the liability before the close of the notification period,  
30 the Franchise Tax Board shall suspend the imposition of any  
31 interest, penalty, addition to tax, or additional amount with  
32 respect to any failure relating to the return which is computed by  
33 reference to the period of time the failure continues to exist and  
34 which is properly allocable to the suspension period.

35 (b) For purposes of this section:

36 (1) Except as provided in subdivision (e), “notification period”  
37 means the 18-month period beginning on the later of either of the  
38 following:

39 (A) The date on which the return is filed.

40 (B) The due date of the return without regard to extensions.

1 (2) "Suspension period" means the period beginning on the  
2 day after the close of the notification period and ending on the  
3 date which is 15 days after the date on which notice described in  
4 subdivision (a) is provided by the Franchise Tax Board.

5 (c) This section shall be applied separately with respect to  
6 each item or adjustment.

7 (d) This section shall not apply to any of the following:

8 (1) Any penalty imposed by Section 19131.

9 (2) Any penalty imposed by Section 19132.

10 (3) Any interest, penalty, addition to tax, or additional amount  
11 involving fraud.

12 (4) Any interest, penalty, addition to tax, or additional amount  
13 with respect to any tax liability shown on the return.

14 (5) Any criminal penalty.

15 (6) *Any interest, penalty, addition to tax, or additional amount*  
16 *with respect to any reportable transaction and any listed*  
17 *transaction.*

18 (e) For taxpayers required by subdivision (a) of Section 18622  
19 to report a change or correction by the Commissioner of Internal  
20 Revenue or other officer of the United States or other competent  
21 authority the following rules shall apply:

22 (1) The notification period under subdivision (a) shall be  
23 either of the following:

24 (A) One year from the date the notice required by Section  
25 18622 is filed with the Franchise Tax Board by the taxpayer or  
26 the Internal Revenue Service, if the taxpayer or the Internal  
27 Revenue Service reports that change or correction within six  
28 months after the final federal determination.

29 (B) Two years from the date when the notice required by  
30 Section 18622 is filed with the Franchise Tax Board by the  
31 taxpayer or the Internal Revenue Service, if after the six-month  
32 period required in Section 18622, a taxpayer or the Internal  
33 Revenue Service reports a change or correction.

34 (2) The suspension period under subdivision (a) shall mean the  
35 period beginning on the day after the close of the notification  
36 period under paragraph (1) and ending on the date which is 15  
37 days after the date on which notice described in subdivision (a) is  
38 provided by the Franchise Tax Board.

39 (f) For notices sent after January 1, 2004, this section does not  
40 apply to taxpayers with taxable income greater than two hundred

1 thousand dollars (\$200,000) that have been contacted by the  
2 Franchise Tax Board regarding the use of a potentially abusive  
3 tax shelter (within the meaning of Section 19777).

4 (g) This section shall apply to taxable years ending after  
5 October 10, 1999.

6 *SEC. 48. Section 19136.7 is added to the Revenue and*  
7 *Taxation Code, to read:*

8 *19136.7. (a) No addition to tax shall be made pursuant to*  
9 *Section 19136 for any period before the date prescribed under*  
10 *Section 18566 for the filing of the return for the 2005 taxable*  
11 *year, with respect to any underpayment of an installment for the*  
12 *2005 taxable year, to the extent that the underpayment was*  
13 *created or increased by any provision of the act adding this*  
14 *section.*

15 *(b) No addition to tax shall be made pursuant to Section*  
16 *18601 for the filing of the return for the 2005 taxable year, with*  
17 *respect to any underpayment of an installment for the 2005*  
18 *taxable year, to the extent that the underpayment was created or*  
19 *increased by any provision of the act adding this section.*

20 *(c) The Franchise Tax Board shall implement this section in a*  
21 *reasonable manner.*

22 *SEC. 49. Section 19184 of the Revenue and Taxation Code is*  
23 *amended to read:*

24 *19184. (a) A penalty of fifty dollars (\$50) shall be imposed*  
25 *for each failure, unless it is shown that the failure is due to*  
26 *reasonable cause, by any person required to file who fails to file*  
27 *a report at the time and in the manner required by any of the*  
28 *following provisions:*

29 *(1) Subdivision (c) of Section 17507, relating to individual*  
30 *retirement accounts.*

31 *(2) Section 220(h) of the Internal Revenue Code, relating to*  
32 *medical savings accounts for taxable years beginning on or after*  
33 *January 1, 1997.*

34 *(3) Subdivision (b) of Section 17140.3 or subdivision (b) of*  
35 *Section 23711 relating to qualified tuition programs.*

36 *(4) Subdivision (e) of Section 23712, relating to ~~education~~*  
37 *~~individual retirement~~ Coverdell education savings accounts.*

38 *(5) Section 223(h) of the Internal Revenue Code, relating to*  
39 *health savings accounts.*

40 *(b) (1) Any individual who:*

(A) Is required to furnish information under Section 17508 as to the amount designated nondeductible contributions made for any taxable year, and

(B) Overstates the amount of those contributions made for that taxable year, shall pay a penalty of one hundred dollars (\$100) for each overstatement unless it is shown that the overstatement is due to reasonable cause.

(2) Any individual who fails to file a form required to be filed by the Franchise Tax Board under Section 17508 shall pay a penalty of fifty dollars (\$50) for each failure unless it is shown that the failure is due to reasonable cause.

(c) Article 3 (commencing with Section 19031) of this chapter (relating to deficiency assessments) shall not apply in respect of the assessment or collection of any penalty imposed under this section.

*SEC. 50. Section 19559 of the Revenue and Taxation Code, as added by Section 7 of Chapter 690 of the Statutes of 2002, is repealed.*

~~19559. (a) (1) The Franchise Tax Board may disclose returns and return information to federal agencies on the same terms and to the same extent as returns and return information may be disclosed by the Secretary of the Treasury under paragraph (3)(C) or paragraph (7) of Section 6103 (i) of the Internal Revenue Code, as amended by Section 201 of the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134).~~

~~(2) Notwithstanding paragraph (1), the Franchise Tax Board may not disclose any return or return information under this section if the Franchise Tax Board determines, in the manner specified by the board, that this disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.~~

~~(b) This section shall apply to disclosures made on or after January 23, 2002, except that no disclosures may be made under this section after December 31, 2003.~~

*SEC. 51. Section 19559 of the Revenue and Taxation Code, as added by Section 16 of Chapter 807 of the Statutes of 2002, is amended to read:*

19559. (a) (1) The Franchise Tax Board may disclose returns and return information to federal agencies on the same

1 terms and to the same extent as returns and return information  
2 may be disclosed by the Secretary of the Treasury under  
3 paragraph (3)(C) or paragraph (7) of Section 6103 (i) of the  
4 Internal Revenue Code, ~~as amended by Section 201 of the~~  
5 ~~Victims of Terrorism Tax Relief Act of 2001 (Public Law~~  
6 ~~107-134).~~

7 (2) Notwithstanding paragraph (1), the Franchise Tax Board  
8 may not disclose any return or return information under this  
9 section if the Franchise Tax Board determines, in the manner  
10 specified by the ~~board~~ *Franchise Tax Board*, that this disclosure  
11 would identify a confidential informant or seriously impair a civil  
12 or criminal tax investigation.

13 (b) This section shall apply to disclosures made on or after  
14 January 23, 2002, except that no disclosures may be made under  
15 this section after December 31, ~~2003~~ 2005.

16 *SEC. 52. Section 23051.5 of the Revenue and Taxation Code*  
17 *is amended to read:*

18 23051.5. (a) (1) Unless otherwise specifically provided, the  
19 terms “Internal Revenue Code,” “Internal Revenue Code of  
20 1954,” or “Internal Revenue Code of 1986,” for purposes of this  
21 part, mean Title 26 of the United States Code, including all  
22 amendments thereto, as enacted on the specified date for the  
23 applicable taxable year as defined in paragraph (1) of subdivision  
24 (a) of Section 17024.5.

25 (2) (A) Unless otherwise specifically provided, for federal  
26 laws enacted on or after January 1, 1987, and on or before the  
27 specified date for the taxable year, uncodified provisions that  
28 relate to provisions of the Internal Revenue Code that are  
29 incorporated for purposes of this part, shall be applicable to the  
30 same taxable years as the incorporated provisions.

31 (B) *In the case where Section 901 of the Economic Growth*  
32 *and Tax Relief Act of 2001 (Public Law 107-16) applies to any*  
33 *provision of the Internal Revenue Code that is incorporated for*  
34 *purposes of this part, Section 901 of the Economic Growth and*  
35 *Tax Relief Act of 2001 (Public Law 107-16) shall apply for*  
36 *purposes of this part in the same manner and to the same taxable*  
37 *years as it applies for federal income tax purposes.*

38 (3) Subtitle G (Tax Technical Corrections) and Part I of  
39 Subtitle H (Repeal of Expired or Obsolete Provisions) of the  
40 Revenue Reconciliation Act of 1990 (Public Law 101-508)

1 modified numerous provisions of the Internal Revenue Code and  
2 provisions of prior federal acts, some of which are incorporated  
3 by reference into this part. Unless otherwise provided, the  
4 provisions described in the preceding sentence, to the extent that  
5 they modify provisions that are incorporated into this part, are  
6 declaratory of existing law and shall be applied in the same  
7 manner and for the same periods as specified in the Revenue  
8 Reconciliation Act of 1990.

9 (b) Unless otherwise specifically provided, when applying the  
10 Internal Revenue Code for purposes of this part, a reference to  
11 any of the following is not applicable for purposes of this part:

12 (1) Domestic International Sales Corporations (DISC), as  
13 defined in Section 992(a) of the Internal Revenue Code.

14 (2) Foreign Sales Corporations (FSC), as defined in Section  
15 922(a) of the Internal Revenue Code.

16 (3) A personal holding company, as defined in Section 542 of  
17 the Internal Revenue Code.

18 (4) A foreign personal holding company, as defined in Section  
19 552 of the Internal Revenue Code.

20 (5) A foreign investment company, as defined in Section  
21 1246(b) of the Internal Revenue Code.

22 (6) A foreign trust as defined in Section 679 of the Internal  
23 Revenue Code.

24 (7) Foreign income taxes and foreign income tax credits.

25 (8) Federal tax credits and carryovers of federal tax credits.

26 (c) (1) The provisions contained in Sections 41 to 44,  
27 inclusive, and Section 172 of the Tax Reform Act of 1984  
28 (Public Law 98-369), relating to treatment of debt instruments, is  
29 not applicable for taxable years beginning before January 1,  
30 1987.

31 (2) The provisions contained in Public Law 99-121, relating to  
32 the treatment of debt instruments, is not applicable for taxable  
33 years beginning before January 1, 1987.

34 (3) For taxable years beginning on and after January 1, 1987,  
35 the provisions referred to by paragraphs (1) and (2) shall be  
36 applicable for purposes of this part in the same manner and with  
37 respect to the same obligations as the federal provisions, except  
38 as otherwise provided in this part.

39 (d) When applying the Internal Revenue Code for purposes of  
40 this part, regulations promulgated in final form or issued as

1 temporary regulations by “the secretary” shall be applicable as  
2 regulations issued under this part to the extent that they do not  
3 conflict with this part or with regulations issued by the Franchise  
4 Tax Board.

5 (e) Whenever this part allows a taxpayer to make an election,  
6 the following rules shall apply:

7 (1) A proper election filed with the Internal Revenue Service  
8 in accordance with the Internal Revenue Code or regulations  
9 issued by “the secretary” shall be deemed to be a proper election  
10 for purposes of this part, unless otherwise expressly provided in  
11 this part or in regulations issued by the Franchise Tax Board.

12 (2) A copy of that election shall be furnished to the Franchise  
13 Tax Board upon request.

14 (3) (A) Except as provided in subparagraph (B), in order to  
15 obtain treatment other than that elected for federal purposes, a  
16 separate election shall be filed with the Franchise Tax Board at  
17 the time and in the manner that may be required by the Franchise  
18 Tax Board.

19 (B) (i) If a taxpayer makes a proper election for federal  
20 income tax purposes prior to the time that taxpayer becomes  
21 subject to the tax imposed under this part or Part 10  
22 (commencing with Section 17001), that taxpayer is deemed to  
23 have made the same election for purposes of the tax imposed by  
24 this part, Part 10 (commencing with Section 17001), and Part  
25 10.2 (commencing with Section 18401), as applicable, and that  
26 taxpayer may not make a separate election for California tax  
27 purposes unless that separate election is expressly authorized by  
28 this part, Part 10 (commencing with Section 17001), or Part 10.2  
29 (commencing with Section 18401), or by regulations issued by  
30 the Franchise Tax Board.

31 (ii) If a taxpayer has not made a proper election for federal  
32 income tax purposes prior to the time that taxpayer becomes  
33 subject to tax under this part or Part 10 (commencing with  
34 Section 17001), that taxpayer may not make a separate California  
35 election for purposes of this part, Part 10 (commencing with  
36 Section 17001), or Part 10.2 (commencing with Section 18401),  
37 unless that separate election is expressly authorized by this part,  
38 Part 10 (commencing with Section 17001), Part 10.2  
39 (commencing with Section 18401), or by regulations issued by  
40 the Franchise Tax Board.



1 (iii) This subparagraph applies only to the extent that the  
2 provisions of the Internal Revenue Code or regulations issued by  
3 “the secretary” authorizing an election for federal income tax  
4 purposes apply for purposes of this part, Part 10 (commencing  
5 with Section 17001), or Part 10.2 (commencing with Section  
6 18401).

7 (f) Whenever this part allows or requires a taxpayer to file an  
8 application or seek consent, the rules set forth in subdivision (e)  
9 shall apply to that application or consent.

10 (g) When applying the Internal Revenue Code for purposes of  
11 determining the statute of limitations under this part, any  
12 reference to a period of three years shall be modified to read four  
13 years for purposes of this part.

14 (h) When applying, for purposes of this part, any section of the  
15 Internal Revenue Code or any applicable regulation thereunder,  
16 all of the following shall apply:

17 (1) For purposes of Chapter 2 (commencing with Section  
18 23101), Chapter 2.5 (commencing with Section 23400), and  
19 Chapter 3 (commencing with Section 23501), the term “taxable  
20 income” shall mean “net income.”

21 (2) For purposes of Article 2 (commencing with Section  
22 23731) of Chapter 4, the term “taxable income” shall mean  
23 “unrelated business taxable income,” as defined by Section  
24 23732.

25 (3) Any reference to “subtitle,” “Chapter 1,” or “chapter” shall  
26 mean this part.

27 (4) The provisions of Section 7806 of the Internal Revenue  
28 Code, relating to construction of title, shall apply.

29 (5) Any provision of the Internal Revenue Code that becomes  
30 operative on or after the specified date for that taxable year shall  
31 become operative on the same date for purposes of this part.

32 (6) Any provision of the Internal Revenue Code that becomes  
33 inoperative on or after the specified date for that taxable year  
34 shall become inoperative on the same date for purposes of this  
35 part.

36 (7) Due account shall be made for differences in federal and  
37 state terminology, effective dates, substitution of “Franchise Tax  
38 Board” for “secretary” when appropriate, and other obvious  
39 differences.

(8) Any provision of the Internal Revenue Code that refers to a “corporation” shall, when applicable for purposes of this part, include a “bank,” as defined by Section 23039.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

*SEC. 53. Section 23662 is added to the Revenue and Taxation Code, to read:*

*23662. (a) For each taxable year beginning on or after January 1, 2006, and before January 1, 2012, there shall be allowed as an environmental tax credit against the “tax,” as defined by Section 23036, an amount equal to five cents (\$0.05) for each gallon of ultra-low sulfur diesel fuel produced during the taxable year by a small refiner at any facility located in this state.*

*(b) The aggregate credit determined under subdivision (a) for any taxable year with respect to any facility shall not exceed 25 percent of the qualified capital costs incurred by the small refiner with respect to that facility, reduced by the aggregate credits determined under this section for all prior taxable years with respect to that facility.*

*(c) For purposes of this section:*

*(1) “Small refiner” means any refiner who owns or operates a refinery in California that:*

*(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day.*

*(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day.*

*(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.*

*(2) (A) “Qualified capital costs” means, with respect to any facility, those costs paid or incurred during the applicable period for items certified by the California Air Resources Board under subparagraph (B) for compliance with the applicable EPA or CARB regulations with respect to that facility, including, but not limited to, expenditures for the construction of new process*

1 operation units or the dismantling and reconstruction of existing  
2 process units to be used in the production of ultra-low sulfur  
3 diesel fuel, associated adjacent or offsite equipment (including  
4 tankage, catalyst, and power supply), engineering, construction  
5 period interest, site work, and permitting.

6 (B) (i) Before claiming a credit under this section, a small  
7 refiner shall request from the California Air Resources Board a  
8 certification that both of the following are true:

9 (I) That the items for which qualified capital costs were paid  
10 or incurred are for compliance with the applicable EPA or  
11 CARB regulations described in subparagraph (A).

12 (II) That the items for which qualified capital costs were paid  
13 or incurred have been placed in service by the small refiner.

14 (ii) The request described in clause (i) shall be in a form and  
15 contain sufficient information to allow the California Air  
16 Resources Board to determine that the items that are requested  
17 to be certified were placed in service for compliance with  
18 applicable EPA and CARB regulations, which information shall  
19 include the date on which the items were placed in service.

20 (C) The California Air Resources Board shall make a  
21 determination regarding a request described in subparagraph  
22 (B) on or before 60 days after the request is submitted. If the  
23 board does not make a determination within this time period, the  
24 certification will be deemed to be granted.

25 (3) "Facility" means a small refiner's petroleum refinery  
26 located in the State of California that has incurred qualified  
27 capital costs to produce ultra-low sulfur diesel fuel.

28 (4) "Applicable EPA regulations" means the Highway Diesel  
29 Fuel Sulfur Control Requirements of the Environmental  
30 Protection Agency.

31 (5) "Applicable CARB regulations" means the Vehicular  
32 Diesel Fuel Sulfur Control Requirements of the California Air  
33 Resources Board (CARB) under Resolution 03-17.

34 (6) "Applicable period" means, with respect to any facility,  
35 the period beginning on January 1, 2004, and ending on May 31,  
36 2007.

37 (7) "Ultra-low sulfur diesel fuel" means both of the following:

38 (A) Diesel fuel with a sulfur content of 15 parts per million or  
39 less.

40 (B) (i) Subject to clause (ii), either of the following:

1     (I) Vehicular diesel fuel produced and sold by a small refiner  
2     on or after June 1, 2006.

3     (II) Vehicular diesel fuel produced and sold by the small  
4     refiner before June 1, 2006, that the small refiner specifically  
5     identifies and supports through internal test reports as meeting  
6     applicable CARB regulations.

7     (ii) For purposes of this section, it is rebuttably presumed that  
8     the fuel described in clause (i) is ultra-low sulfur diesel fuel. The  
9     California Air Resources Board may rebut this presumption by  
10    demonstrating that the fuel does not comply with applicable  
11    CARB regulations.

12    (8) “Barrels per stream day” means the maximum number of  
13    barrels of input that a distillation facility can process within a  
14    24-hour period when running at full capacity under optimal  
15    crude and product slate conditions with no allowance for  
16    downtime.

17    (d) For purposes of this section, if a credit is determined under  
18    this section for any expenditure with respect to any property, the  
19    increase in basis of that property that would (but for this  
20    subdivision) result from that expenditure shall be reduced by the  
21    amount of the credit so determined.

22    (e) No deduction shall be allowed for that portion of the  
23    expenses otherwise allowable as a deduction for the taxable year  
24    which is equal to the amount of the credit determined for the  
25    taxable year under this section.

26    (f) In the case where the credit allowed by this section exceeds  
27    the “tax,” the excess may be carried over to reduce the “tax” in  
28    the following year, and the six succeeding years if necessary until  
29    the credit is exhausted.

30    (g) If a small refiner that claims a credit under this section  
31    sells, transfers, or otherwise disposes of, either directly or  
32    indirectly, a facility within five years of the taxable year during  
33    which it first claimed the credit, there shall be added to the “tax”  
34    of the small refiner during the taxable year of sale, transfer, or  
35    disposition an amount equal to the total credit claimed multiplied  
36    by a fraction, the numerator of which is the remaining term of  
37    five years and the denominator of which is 5.

38    (h) This section shall remain in effect only until January 1,  
39    2013, and as of that date is repealed.

1 *SEC. 54. Section 23701s of the Revenue and Taxation Code is*  
2 *amended to read:*

3 23701s. (a) An employee-funded pension trust described in  
4 Section 501(c)(18) of the Internal Revenue Code, except as  
5 otherwise provided.

6 (b) The last sentence in Section 501(c)(18) of the Internal  
7 Revenue Code, ~~as amended by Title VI of the Economic Growth~~  
8 ~~and Tax Relief Reconciliation Act of 2001 (Public Law 107-16),~~  
9 relating to excess contributions under Section 4979, shall not  
10 apply.

11 *SEC. 55. Section 23701w of the Revenue and Taxation Code*  
12 *is amended to read:*

13 23701w. ~~(a) A veteran's organization, as defined by Section~~  
14 ~~501(c)(19) of the Internal Revenue Code, as amended by Section~~  
15 ~~105 of the Military Family Tax Relief Act of 2003 (Public Law~~  
16 ~~108-121).~~

17 ~~(b) The amendments made to this section by the act adding~~  
18 ~~this subdivision shall apply to taxable years beginning after~~  
19 ~~November 11, 2003.~~

20 *SEC. 56. Section 23703.5 of the Revenue and Taxation Code*  
21 *is amended to read:*

22 23703.5. Section 501(p) of the Internal Revenue Code, ~~as~~  
23 ~~amended by Section 108 of the Military Family Relief Tax Act of~~  
24 ~~2003 (Public Law 108-121),~~ relating to suspension of tax-exempt  
25 status of terrorist organizations, shall apply, except as otherwise  
26 provided:

27 (a) References to Section 501(a) of the Internal Revenue Code  
28 shall be modified to refer to Section 23701.

29 (b) Section 501(p)(4) of the Internal Revenue Code is  
30 modified by substituting the phrase "under Part 10 (commencing  
31 with Section 17001) and this part" for the phrase "under any  
32 provision of this title, including section 170, 545(b)(2),  
33 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522" contained therein.

34 (c) This section shall apply only during the period described in  
35 Section 501(p)(3) of the Internal Revenue Code that the federal  
36 tax exemption of the organization described in Section 501(p)(2)  
37 of the Internal Revenue Code is suspended for federal income tax  
38 purposes under Section 501(p)(1) of the Internal Revenue Code.

39 (d) Section 501(p)(5) of the Internal Revenue Code shall not  
40 apply and in lieu thereof, notwithstanding any other provision of

1 law, no organization or other person may challenge a suspension  
2 under this section, a designation or identification described in  
3 Section 501(p)(2) of the Internal Revenue Code, the period of  
4 suspension described in Section 501(p)(3) of the Internal  
5 Revenue Code, or a denial of a deduction under Section  
6 501(p)(4) of the Internal Revenue Code as modified in  
7 subdivision (b) in any administrative or judicial proceeding  
8 relating to the California tax liability of the organization or other  
9 person.

10 (e) (1) Credit or refund (with interest) with respect to an  
11 overpayment shall be made if all of the following apply with  
12 respect to that overpayment:

13 (A) The tax exemption of any organization described in  
14 Section 501(p)(2) of the Internal Revenue Code is suspended  
15 under this section.

16 (B) Each designation and identification described in Section  
17 501(p)(2) of the Internal Revenue Code which has been made  
18 with respect to that organization is determined to be erroneous  
19 under Section 501(p)(6) of the Internal Revenue Code for federal  
20 income tax purposes.

21 (C) The erroneous designations and identifications result in an  
22 overpayment of income tax for any taxable year by that  
23 organization.

24 (2) If the credit or refund of any overpayment of tax described  
25 in subparagraph (C) of paragraph (1) is prevented at any time by  
26 the operation of any law or rule of law (including res judicata),  
27 the credit or refund may nevertheless be allowed or made if the  
28 claim therefor is filed before the close of the one-year period  
29 beginning on the date of the last determination described in  
30 subparagraph (B) of paragraph (1).

31 (f) This section shall apply to designations made before, on, or  
32 after November 11, 2003.

33 *SEC. 57. Section 23705 of the Revenue and Taxation Code is*  
34 *amended to read:*

35 23705. (a) (1) An organization described in Section 23701i  
36 (voluntary employee's beneficiary associations) or 23701q  
37 (qualified group legal service plans) which is part of a plan of an  
38 employer shall not be exempt from tax under Section 23701,  
39 unless that plan meets the requirements of Section 505(b) of the  
40 Internal Revenue Code, ~~as amended by Title VI of the Economic~~

1 ~~Growth and Tax Relief Reconciliation Act of 2001 (Public Law~~  
2 ~~107-16).~~

3 (2) Paragraph (1) shall not apply to any organization described  
4 in Section 505(a)(2) of the Internal Revenue Code.

5 (b) A copy of any notice filed with the Secretary of the  
6 Treasury, pursuant to Section 505(c) of the Internal Revenue  
7 Code, relating to application for tax-exempt status, shall be filed  
8 at the same time and in the same manner with the Franchise Tax  
9 Board.

10 *SEC. 58. Section 23711 of the Revenue and Taxation Code is*  
11 *amended to read:*

12 23711. Section 529 of the Internal Revenue Code,—~~as~~  
13 ~~amended by Section 402 of the Economic Growth and Tax Relief~~  
14 ~~Reconciliation Act of 2001 (Public Law 107-16) and Section 417~~  
15 ~~of the Job Creation and Worker Assistance Act of 2002 (Public~~  
16 ~~Law 107-147);~~ relating to qualified state tuition programs, shall  
17 apply, except as otherwise provided.

18 (a) Section 529(a) of the Internal Revenue Code is modified as  
19 follows:

20 (1) By substituting the phrase “under Part 10 (commencing  
21 with Section 17001) and this part” in lieu of the phrase “under  
22 this subtitle.”

23 (2) By substituting “Article 2 (commencing with Section  
24 23731)” in lieu of “section 511.”

25 (b) A copy of the report required to be filed with the Secretary  
26 of the Treasury under Section 529(d) of the Internal Revenue  
27 Code shall be filed with the Franchise Tax Board at the same  
28 time and in the same manner as specified in that section.

29 *SEC. 59. Section 23712 of the Revenue and Taxation Code is*  
30 *amended to read:*

31 23712. Section 530 of the Internal Revenue Code,—~~as~~  
32 ~~amended by Sections 401 and 402 of the Economic Growth and~~  
33 ~~Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and~~  
34 ~~Section 411 of the Job Creation and Worker Assistance Act of~~  
35 ~~2002 (Public Law 107-147);~~ relating to *Coverdell* education  
36 savings accounts, shall apply, except as otherwise provided.

37 (a) Section 530(a) of the Internal Revenue Code is modified as  
38 follows:

1 (1) By substituting the phrase “under Part 10 (commencing  
2 with Section 17001) and this part” in lieu of the phrase “under  
3 this subtitle.”

4 (2) By substituting “Article 2 (commencing with Section  
5 23731)” in lieu of “section 511.”

6 (b) For taxable years beginning before January 1, 2002,  
7 Section 530(b)(1) of the Internal Revenue Code, relating to the  
8 definition of education savings account, is modified to  
9 additionally require that upon the date that the designated  
10 beneficiary becomes 30 years of age, any balance to the credit of  
11 the beneficiary shall be distributed within 30 days after the date  
12 the beneficiary becomes 30 years of age to that beneficiary.

13 (c) Section 530(d) of the Internal Revenue Code is modified as  
14 follows:

15 (1) By substituting the phrase “under Part 10 (commencing  
16 with Section 17001) in the manner as provided in Section 72(b)  
17 of the Internal Revenue Code, as modified by Part 10” in lieu of  
18 the phrase “in the manner as provided in Section 72(b)” in  
19 Section 530(d)(1) of the Internal Revenue Code.

20 ~~(2) (A) A taxpayer that has elected to waive the application of~~  
21 ~~Section 530(d)(2) of the Internal Revenue Code for federal~~  
22 ~~income tax purposes shall be treated as having waived the~~  
23 ~~application of that paragraph for state purposes, a separate~~  
24 ~~election for state purposes shall not be allowed under paragraph~~  
25 ~~(3) of subdivision (c) of Section 17024.5 or paragraph (3) of~~  
26 ~~subdivision (c) of Section 23051.5, and the federal election shall~~  
27 ~~be binding for purposes of Part 10 (commencing with Section~~  
28 ~~17001) and this part.~~

29 ~~(B) If a taxpayer fails to make an election under Section~~  
30 ~~530(d)(2)(C) of the Internal Revenue Code for federal income tax~~  
31 ~~purposes to waive the application of Section 530(d)(2) of the~~  
32 ~~Internal Revenue Code, an election under Section 530(d)(2)(C)~~  
33 ~~of the Internal Revenue Code shall not be allowed for state~~  
34 ~~purposes, Section 530(d)(2)(A) and (B) of the Internal Revenue~~  
35 ~~Code shall apply for state purposes, and a separate election for~~  
36 ~~state purposes shall not be allowed under paragraph (3) of~~  
37 ~~subdivision (c) of Section 17024.5.~~

38 ~~(3)~~

39 (2) (A) By substituting the phrase “tax imposed by Part 10  
40 (commencing with Section 17001)” in lieu of the phrase “tax



imposed by this chapter” in Section 530(d)(4)(A) of the Internal Revenue Code.

(B) By substituting the phrase “increased by 2 ½ percent” in lieu of the phrase “increased by 10 percent” in Section 530(d)(4)(A) of the Internal Revenue Code.

(C) By substituting the phrase “shall be included in the contributor’s gross income under Part 10 (commencing with Section 17001) or this part” in lieu of the phrase “shall be included in gross income” in Section 530(d)(4)(C) of the Internal Revenue Code.

(D) ~~(i)~~ *For taxable years beginning before January 1, 2005:*

(i) By additionally providing that Section 530(d)(4)(A) of the Internal Revenue Code, relating to additional tax for distributions not used for educational purposes, shall not apply if the payment or distribution is made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by Section 2005(e)(3) of Title 10 of the United States Code, as in effect on November 11, 2003) attributable to that attendance.

(ii) The amendments made to this section by ~~the act adding this subparagraph~~ *Section 12 of Chapter 552 of the Statutes of 2004* shall apply to taxable years beginning after December 31, 2002.

(d) For purposes of Part 10 (commencing with Section 17001) and this part, in the case of a custodial account treated as a trust by reason of Section 530(g) of the Internal Revenue Code, the custodian of that account shall be treated as the trustee thereof.

(e) A copy of the report, which is required to be filed with the Secretary of the Treasury under Section 530(h) of the Internal Revenue Code, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

*SEC. 60. Section 24306 of the Revenue and Taxation Code is amended to read:*

24306. (a) For purposes of this section, the following terms have the following meanings, as provided in the Golden State

1 Scholarshare Trust Act (Article 19 (commencing with Section  
2 69980) of Chapter 2 of Part 42 of the Education Code):

3 (1) “Beneficiary” has the meaning set forth in subdivision (c)  
4 of Section 69980 of the Education Code.

5 (2) “Benefit” has the meaning set forth in subdivision (d) of  
6 Section 69980 of the Education Code.

7 (3) “Participant” has the meaning set forth in subdivision (h)  
8 of Section 69980 of the Education Code.

9 (4) “Participation agreement” has the meaning set forth in  
10 subdivision (i) of Section 69980 of the Education Code.

11 (5) “Scholarshare trust” has the meaning set forth in  
12 subdivision (f) of Section 69980 of the Education Code.

13 (b) ~~Except~~ *For taxable years beginning before January 1,*  
14 *2002,* as otherwise provided in subdivision (c), gross income of a  
15 participant shall not include any of the following:

16 (1) Any earnings under a Scholarshare trust, or a participation  
17 agreement, as provided in Article 19 (commencing with Section  
18 69980) of Chapter 2 of Part 42 of the Education Code.

19 (2) Contributions to the Scholarshare trust on behalf of a  
20 beneficiary shall not be includable as gross income of that  
21 beneficiary.

22 (c) ~~(1)~~ *For taxable years beginning before January 1, 2002:*

23 (1) Any distribution under a Scholarshare trust participation  
24 agreement shall be includable in the gross income of the  
25 distributee in the manner as provided under Section 72 of the  
26 Internal Revenue Code, as modified by Section 24272.2, to the  
27 extent not excluded from gross income under any other provision  
28 of this part. For purposes of applying Section 72 of the Internal  
29 Revenue Code, the following apply:

30 (A) All Scholarshare trust accounts of which an individual is a  
31 beneficiary shall be treated as one account, except as otherwise  
32 provided.

33 (B) All distributions during a taxable year shall be treated as  
34 one distribution.

35 (C) The value of the participation agreement, income on the  
36 participation agreement, and investment in the participation  
37 agreement shall be computed as of the close of the calendar year  
38 in which the taxable year begins.

39 (2) A contribution by a for-profit or nonprofit entity, or by a  
40 state or local government agency, for the benefit of an owner or

1 employee of that entity or a beneficiary whom the owner or  
2 employee has the power to designate, including the owner or  
3 employee's minor children, shall be included in the gross income  
4 of that owner or employee in the year the contribution is made.

5 (3) For purposes of this subdivision, "distribution" includes  
6 any benefit furnished to a beneficiary under a participation  
7 agreement, as provided in Article 19 (commencing with Section  
8 69980) of Chapter 2 of Part 42 of the Education Code.

9 (4) (A) Paragraph (1) shall not apply to that portion of any  
10 distribution that, within 60 days of distribution, is transferred to  
11 the credit of another beneficiary under the Scholarshare trust who  
12 is a "member of the family," as that term is used in Section  
13 529(e)(2) of the Internal Revenue Code, as amended by Section  
14 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of  
15 the former beneficiary of that Scholarshare trust.

16 (B) Any change in the beneficiary of an interest in the  
17 Scholarshare trust shall not be treated as a distribution for  
18 purposes of paragraph (1) if the new beneficiary is a "member of  
19 the family," as that term is used in Section 2032A(e)(2) of the  
20 Internal Revenue Code, of the former beneficiary of that  
21 Scholarshare trust.

22 (d) For taxable years beginning on or after January 1, 2002,  
23 Sections 529(c) and 529(e) of the Internal Revenue Code, ~~as~~  
24 ~~amended by Section 402 of the Economic Growth and Tax Relief~~  
25 ~~Reconciliation Act of 2001 (Public Law 107-16) and Section 417~~  
26 ~~of the Job Creation and Worker Assistance Act of 2002 (Public~~  
27 ~~Law 107-147); shall apply in lieu of subdivisions (b) and (c) of~~  
28 ~~this section except as otherwise provided in Part 10~~  
29 ~~(commencing with Section 17001) and this part.~~

30 *SEC. 61. Section 24349 of the Revenue and Taxation Code is*  
31 *amended to read:*

32 24349. (a) There shall be allowed as a depreciation deduction  
33 a reasonable allowance for the exhaustion, wear, and tear  
34 (including a reasonable allowance for obsolescence)—

35 (1) Of property used in the trade or business; or

36 (2) Of property held for the production of income.

37 (b) Except as otherwise provided in subdivision (c), for  
38 taxable years ending after December 31, 1958, the term  
39 "reasonable allowance" as used in subdivision (a) shall include,  
40 but shall not be limited to, an allowance computed in accordance

1 with regulations prescribed by the Franchise Tax Board, under  
2 any of the following methods:

3 (1) The straight-line method.

4 (2) The declining balance method, using a rate not exceeding  
5 twice the rate that would have been used had the annual  
6 allowance been computed under the method described in  
7 paragraph (1).

8 (3) The sum of the years-digits method.

9 (4) Any other consistent method productive of an annual  
10 allowance that, when added to all allowances for the period  
11 commencing with the taxpayer's use of the property and  
12 including the taxable year, does not, during the first two-thirds of  
13 the useful life of the property, exceed the total of those  
14 allowances that would have been used had those allowances been  
15 computed under the method described in paragraph (2).

16 Nothing in this subdivision shall be construed to limit or  
17 reduce an allowance otherwise allowable under subdivision (a).

18 (c) Any grapevine replaced in a vineyard in California in a  
19 taxable year beginning on or after January 1, 1992, as a direct  
20 result of a phylloxera infestation in that vineyard, and any  
21 grapevine replaced in a vineyard in California in a taxable year  
22 beginning on or after January 1, 1997, as a direct result of  
23 Pierce's Disease in that vineyard, shall have a useful life of five  
24 years, except that it shall have a class life of 10 years for  
25 purposes of depreciation under Section 168(g)(2) of the Internal  
26 Revenue Code where the taxpayer has made an election under  
27 Section 263A(d)(3) of the Internal Revenue Code not to  
28 capitalize costs of the infested vineyard. Every taxpayer claiming  
29 a deduction under this section with respect to a grapevine as  
30 described in this subdivision shall obtain a written certification  
31 from an independent state-certified integrated pest management  
32 adviser, or a state agricultural commissioner or adviser, that  
33 specifies that the replanting was necessary to restore a vineyard  
34 infested with phylloxera or Pierce's Disease. The taxpayer shall  
35 retain the certification for future audit purposes.

36 (d) For purposes of this part, the deduction for property leased  
37 to governments and other tax-exempt entities, as defined in  
38 Section 168(h) of the Internal Revenue Code, shall be limited to  
39 the amount determined under Section 168(g) of the Internal

1 Revenue Code, relating to alternative depreciation system for  
2 certain property.

3 (e) (1) In the case of any building erected or improvements  
4 made on leased property, if the building or improvement is  
5 property to which this section applies, the depreciation deduction  
6 shall be determined under the provisions of this section.

7 (2) An improvement shall be treated for purposes of  
8 determining gain or loss under this part as disposed of by the  
9 lessor when so disposed of or abandoned if both of the following  
10 occur:

11 (A) The improvement is made by the lessor of leased property  
12 for the lessee of that property.

13 (B) The improvement is irrevocably disposed of or abandoned  
14 by the lessor at the termination of the lease by the lessee.

15 This subdivision shall not apply to any property to which  
16 Section 168 of the Internal Revenue Code does not apply for  
17 federal purposes by reason of Section 168(f) of the Internal  
18 Revenue Code. Any election made under Section 168(f)(1) of the  
19 Internal Revenue Code for federal purposes with respect to that  
20 property shall be treated as a binding election for state purposes  
21 under this subdivision with respect to that same property and no  
22 separate election under subdivision (e) of Section 23051.5 with  
23 respect to that property shall be allowed.

24 (3) (A) In determining a lease term, both of the following  
25 shall apply:

26 (i) There shall be taken into account options to renew.

27 (ii) Two or more successive leases which are part of the same  
28 transaction (or a series of related transactions) with respect to the  
29 same or substantially similar property shall be treated as one  
30 lease.

31 (B) For purposes of clause (i) of subparagraph (A), in the case  
32 of nonresidential real property or residential rental property, there  
33 shall not be taken into account any option to renew at fair market  
34 value determined at the time of renewal.

35 (f) (1) Section 167(g) of the Internal Revenue Code, relating  
36 to depreciation under income forecast method, shall apply except  
37 as otherwise provided.

38 (2) Section 167(g)(2)(C) of the Internal Revenue Code is  
39 modified by substituting "Section 19521" in lieu of "Section  
40 460(b)(7)" of the Internal Revenue Code.

(3) Section 167(g)(5)(D) of the Internal Revenue Code is modified by substituting “Part 10.2 (commencing with Section 18401) (other than Article 2 (commencing with Section 19021) and Sections 19142 to 19150, inclusive)” in lieu of “Subtitle F (other than Sections 6654 and 6655).”

(4) Section 167(g)(5)(E) of the Internal Revenue Code shall not apply.

(5) Section 167(g)(7) of the Internal Revenue Code shall not apply.

SEC. 62. Section 24355.3 is added to the Revenue and Taxation Code, to read:

24355.3. For purposes of computing the depreciation deduction pursuant to Section 24349, the useful life of any motor sports entertainment complex as defined in Section 168(i)(15) of the Internal Revenue Code shall be seven years.

SEC. 63. Section 24356.4 is added to the Revenue and Taxation Code, to read:

24356.4. (a) A small refiner (as defined in Section 23662) may elect to treat 75 percent of qualified capital costs (as defined in paragraph (2) of subdivision (c) of Section 23662) for items that are placed in service by the taxpayer during the taxable year as expenses that are not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which paid or incurred.

(b) (1) For purposes of this part, the basis of any property shall be reduced by the portion of the cost of that property taken into account under subdivision (a).

(2) For purposes of Section 1245 of the Internal Revenue Code, and corresponding section of this code, the amount of the deduction allowable under subdivision (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under Section 167 of the Internal Revenue Code, or the corresponding section of this code.

(c) This section is repealed on January 1, 2009.

SEC. 64. Section 24356.5 of the Revenue and Taxation Code is repealed.

~~24356.5. (a) Section 179A of the Internal Revenue Code, relating to deduction for clean-fuel vehicles and certain refueling property, shall apply to property placed in service after June 30,~~

1993, without regard to taxable year, except as otherwise provided.

(b) Section 179A(e)(5) of the Internal Revenue Code, relating to property used outside the United States, is modified to also refer to Section 24356.4 or 24356.7.

(e) Section 179A(g) of the Internal Revenue Code, relating to termination, is modified to substitute “December 31, 1994” for “December 31, 2004.”

SEC. 65. Section 24369.4 of the Revenue and Taxation Code is amended to read:

24369.4. (a) Section 198 of the Internal Revenue Code, relating to expensing of environmental remediation costs, shall apply, except as otherwise provided.

(b) Section 198(b)(2) is modified to refer to Sections 24349 to 24355, inclusive, in lieu of Section 167 of the Internal Revenue Code.

(c) Section 198(f) is modified to refer to Section 24442 in lieu of Section 280B of the Internal Revenue Code.

(d) ~~(1)~~ For expenditures paid or incurred before January 1, 2004, each of the following shall apply:

(1) If a taxpayer has, at any time, made an election for federal purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, Section 198 of the Internal Revenue Code shall apply to that qualified environmental remediation expenditure for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make an election for federal purposes under Section 198(a) of the Internal Revenue Code to have Section 198 of the Internal Revenue Code apply to a qualified environmental remediation expenditure, an election under Section 198(a) of the Internal Revenue Code shall not be allowed for state purposes, Section 198 of the Internal Revenue Code shall not apply to that qualified environmental remediation expenditure for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 23051.5.

(e) No inference as to the proper treatment for purposes of this part of qualified environmental remediation expenditures for periods before the enactment of this section shall be made.

(f) Section 198(h) of the Internal Revenue Code shall not apply.

(g) Section 198 of the Internal Revenue Code shall not apply to expenditures paid or incurred after December 31, 2003.

SEC. 66. Section 24406.6 is added to the Revenue and Taxation Code, to read:

24406.6. For purposes of Section 24373.5 and Sections 24404 to 24406.5, inclusive, net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation, bylaws of the organization, or other contract with patrons provide that those dividends are in addition to amounts otherwise payable to patrons that are derived from business done for or with patrons during the taxable year.

SEC. 67. Section 24407 of the Revenue and Taxation Code is amended to read:

24407. ~~The organizational expenditures of a corporation may, at the election of the corporation (made in accordance with regulations prescribed by the Franchise Tax Board), be treated as deferred expenses. In computing net income, the deferred expenses shall be allowed as a deduction ratably over that period of not less than 60 months as may be selected by the corporation (beginning with the month in which the corporation begins business).~~ If a corporation elects the application of this section (in accordance with regulations prescribed by the Franchise Tax Board) with respect to any organizational expenditures, the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to either the amount of organizational expenditures with respect to the taxpayer or five thousand dollars (\$5,000), reduced (but not to below zero) by the amount by which those organizational expenditures exceed fifty thousand dollars (\$50,000), whichever is less. The remainder of those organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.



SEC. 68. Section 24601 of the Revenue and Taxation Code is amended to read:

24601. (a) Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to deferred compensation, etc., shall apply, except as otherwise provided.

(b) Notwithstanding the date specified in paragraph (1) of subdivision (a) of Section 23051.5, Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to pension, profitsharing, stock bonus plans, etc., shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal income tax purposes.

SEC. 69. Section 24654 of the Revenue and Taxation Code is amended to read:

24654. (a) Section 448 of the Internal Revenue Code, relating to limitation on use of cash method of accounting, shall apply, except as otherwise provided.

(b) For purposes of applying Section 448 of the Internal Revenue Code, Sections 801(d)(2), 801(d)(3), and 801(d)(5) of the Tax Reform Act of 1986 (Public Law 99-514), as modified by Section 1008(a) of Public Law 100-647, shall apply to each taxable year beginning on or after January 1, 1987.

~~(c) For purposes of applying Section 448 of the Internal Revenue Code, Section 403(a) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) shall apply to each taxable year beginning on or after January 1, 2003.~~

SEC. 70. Section 24661.5 of the Revenue and Taxation Code is amended to read:

24661.5. ~~(a) Section 451(e)(3) of the Internal Revenue Code, relating to special election rule for proceeds from livestock sold on account of drought, is modified by substituting the phrase "drought, flood, or other weather-related conditions, and that those conditions" "subdivision (b) of Section 24949.1" in lieu of the phrase "drought conditions, and that these drought conditions" "section 1033(e)(2)" contained therein.~~

~~(b) This section shall apply to sales and exchanges after December 31, 1996.~~

~~(c) This section shall not apply to income years beginning on or after January 1, 1998.~~

SEC. 71. Section 24661.6 is added to the Revenue and Taxation Code, to read:

1     24661.6. *Section 451(i) of the Internal Revenue Code,*  
2     *relating to special rule for sales or dispositions to implement*  
3     *Federal Energy Regulatory Commission or state electric*  
4     *restructuring policy, shall not apply.*

5     SEC. 72. *Section 24692 of the Revenue and Taxation Code is*  
6     *amended to read:*

7     24692. (a) Section 469 of the Internal Revenue Code,  
8     relating to passive activity losses and credits limited, shall apply,  
9     except as otherwise provided.

10    ~~(b) Section 469(c)(7) of the Internal Revenue Code, relating to~~  
11    ~~special rules for taxpayers in real property business, shall not~~  
12    ~~apply.~~

13    ~~(c)~~

14    (b) Section 469(d)(2) of the Internal Revenue Code, relating to  
15    passive activity credits, is modified to refer to the following  
16    credits:

17    (1) The credit for research expenses allowed by Section  
18    23609.

19    (2) The credit for clinical testing expenses allowed by Section  
20    23609.5.

21    (3) The credit for low-income housing allowed by Section  
22    23610.5.

23    (4) The credit for certain wages paid (targeted jobs) allowed  
24    by Section 23621.

25    ~~(d)~~

26    (c) Section 469(g)(1)(A) of the Internal Revenue Code is  
27    modified to provide that if all gain or loss realized on the  
28    disposition of the taxpayer's entire interest in any passive activity  
29    (or former passive activity) is recognized, the excess of—

30    (1) The sum of—

31    (A) Any loss from that activity for that taxable year  
32    (determined after application of Section 469(b) of the Internal  
33    Revenue Code), plus

34    (B) Any loss realized on that disposition, over

35    (2) Net income or gain for the taxable year from all passive  
36    activities (determined without regard to losses described in  
37    paragraph (1)), shall be treated as a loss which is not from a  
38    passive activity.

39    ~~(e)~~

(d) For purposes of applying Section 469(i) of the Internal Revenue Code, relating to the twenty-five thousand dollars (\$25,000) offset for rental real estate activities, the dollar limitation for the credit allowed under Section 23610.5 (relating to low-income housing) shall be equal to seventy-five thousand dollars (\$75,000) in lieu of the amount specified in Section 469(i)(2) of the Internal Revenue Code.

~~(f)~~

(e) Section 502 of the Tax Reform Act of 1986 (Public Law 99-514) shall apply.

~~(g)~~

(f) For each taxable year beginning on or after January 1, 1987, Section 10212 of Public Law 100-203, relating to treatment of publicly traded partnerships under Section 469 of the Internal Revenue Code, shall apply, except as otherwise provided.

~~(h)~~

(g) The amendments to Section 469(k) of the Internal Revenue Code made by Section 2004 of Public Law 100-647, relating to separate application of section in case of publicly traded partnerships, shall apply to each taxable year beginning on or after January 1, 1990, except as otherwise provided.

SEC. 73. *Section 24694 is added to the Revenue and Taxation Code, to read:*

24694. *Section 470 of the Internal Revenue Code, relating to limitation on deductions allocable to property used by governments or other tax-exempt entities, shall apply, except as otherwise provided.*

SEC. 74. *Section 24831.6 is added to the Revenue and Taxation Code, to read:*

24831.6. *Section 613A(c)(6)(H) of the Internal Revenue Code, relating to temporary suspension of taxable income limit with respect to marginal production, shall not apply.*

SEC. 75. *Section 24872 of the Revenue and Taxation Code is amended to read:*

24872. (a) A real estate investment trust shall be deemed to have satisfied the distribution requirements of Section 857(a)(1) of the Internal Revenue Code for purposes of this part if it satisfies the distribution requirements of Section 857(a)(1) of the Internal Revenue Code for federal purposes.

(b) (1) Section 857(b)(1) of the Internal Revenue Code, relating to imposition of tax on real estate investment trusts, shall not apply.

(2) Every real estate investment trust shall be subject to the taxes imposed under Chapter 2 (commencing with Section 23101) and Chapter 3 (commencing with Section 23501), except that its “net income” shall be equal to its “real estate investment trust income,” as defined in subdivision (c).

(c) “Real estate investment trust income” means real estate investment company taxable income, as defined in Section 857(b)(2) of the Internal Revenue Code, modified as follows:

(1) In lieu of Section 857(b)(2)(A) of the Internal Revenue Code, relating to special deductions for corporations, no deduction shall be allowed under Section 24402.

(2) Section 857(b)(2)(D) of the Internal Revenue Code, relating to an exclusion for an amount equal to the net income from foreclosure property, shall not apply.

(3) Section 857(b)(2)(E) of the Internal Revenue Code, relating to a deduction for an amount equal to the tax imposed in the case of failure to meet certain requirements for the taxable year, shall not apply.

(4) Section 857(b)(2)(F) of the Internal Revenue Code, relating to an exclusion for an amount equal to any net income derived from prohibited transactions, shall not apply.

(d) Section 857(b)(3) of the Internal Revenue Code, relating to an alternative tax in case of capital gains, shall not apply.

(e) Section 857(b)(4)(A) of the Internal Revenue Code, relating to the imposition of tax on income from foreclosure property, shall not apply.

(f) Section 857(b)(5) of the Internal Revenue Code, relating to the imposition of tax in case of failure to meet certain requirements, shall not apply.

(g) Section 857(b)(6)(A) of the Internal Revenue Code, relating to the imposition of tax on income from prohibited transactions, shall not apply.

~~(h) (1) Sections 541 through 547 of Public Law 106-170 shall apply unless otherwise provided.~~

~~(2)~~

~~(h) Section 857(b)(7) of the Internal Revenue Code, as added by Section 545 of Public Law 106-170, relating to income from~~

redetermined rents, redetermined deductions, and excess interest, shall not apply.

(i) Section 857(c) of the Internal Revenue Code, relating to restrictions applicable to dividends received from real estate investment trusts, is modified to refer to Sections 24402, 24406, 24410, and 25106, in lieu of Section 243 of the Internal Revenue Code.

(j) The amendments to this section by Chapter 878 of the Statutes of 1993 are clarifications of legislative intent and shall apply to taxable years beginning on or after January 1, 1987.

*SEC. 76. Section 24949.1 of the Revenue and Taxation Code is amended to read:*

24949.1. (a) For purposes of this part, the sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number the taxpayer would sell if he or she followed his or her usual business practices shall be treated as an involuntary conversion to which Sections 24943 to 24949, inclusive, apply if the livestock are sold or exchanged by the taxpayer solely on account of drought, flood, or other weather-related conditions.

(b) (1) *In the case of drought, flood, or other weather-related conditions described in subdivision (a) that result in the area being designated as eligible for assistance by the federal government, subdivision (b) of Section 24944 shall be applied with respect to any converted property by substituting "four years" for "two years."*

(2) *The Franchise Tax Board may extend the period for replacement under Sections 24943 to 24949, inclusive (after the application of paragraph (1)) for the additional time as the Franchise Tax Board determines appropriate if the weather-related conditions that resulted in the application of paragraph (1) continue for more than three years.*

*SEC. 77. Section 24949.3 of the Revenue and Taxation Code is amended to read:*

24949.3. For purposes of Sections 24943 through 24946, if, because of *drought, flood, other weather-related conditions, or* soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other

1 property (including real ~~property~~) property in the case of soil  
2 contamination or other environmental contamination) used for  
3 farming purposes shall be treated as property similar or related in  
4 service or use to the livestock so converted.

5 SEC. 78. Sections 411 to 418, inclusive, of the Job Creation  
6 and Worker Assistance Act of 2002 (Subtitle B of Title IV of  
7 Public Law 107-147) and Sections 401 to 408, inclusive, of the  
8 Working Families Tax Relief Act of 2004 (Public Law 108-311)  
9 enacted numerous technical corrections to provisions of the  
10 Internal Revenue Code, including technical corrections relating  
11 to the Medicare Prescription Drug, Improvement, and  
12 Modernization Act of 2003 (Public Law 108-173), the Jobs and  
13 Growth Tax Relief Reconciliation Act of 2003 (Public Law  
14 108-27), the Job Creation and Worker Assistance Act of 2002  
15 (Public Law 107-147), the Economic Growth and Tax Relief  
16 Reconciliation Act of 2001 (Public Law 107-16), the Community  
17 Renewal Tax Relief Act of 2000 as part of the Consolidated  
18 Appropriations Act, 2001 (Public Law 106-554), the Tax Relief  
19 Extension Act of 1999 as part of the Ticket to Work and Work  
20 Incentives Improvement Act of 1999 (Public Law 106-170), the  
21 Taxpayer Relief Act of 1997 (Public Law 105-34), the Balanced  
22 Budget Act of 1997 (Public Law 105-33), and the Small Business  
23 Job Protection Act of 1996 (Public Law 104-188), some of which  
24 are incorporated by reference into Part 10 (commencing with  
25 Section 17001), Part 10.2 (commencing with Section 18401), and  
26 Part 11 (commencing with Section 23001) of Division 2 of the  
27 Revenue and Taxation Code. Unless otherwise specifically  
28 provided, the technical corrections described in the preceding  
29 sentence, to the extent that they correct provisions that are  
30 incorporated by specific reference into the Revenue and Taxation  
31 Code, are declaratory of existing law and shall be applied in the  
32 same manner and for the same periods as specified in the Job  
33 Creation and Worker Assistance Act of 2002 (Subtitle B of Title  
34 IV of Public Law 107-147) and the Working Families Tax Relief  
35 Act of 2004 (Public Law 108-311) or if later, the specified date of  
36 incorporation.

37 SEC. 79. The amendments made by the enactment of this act  
38 that incorporate by reference the amendments made by Section  
39 1201 of the Medicare Prescription Drug, Improvement, and  
40 Modernization Act of 2003 (Public Law 108-173), which added

Section 223 of the Internal Revenue Code to Part VII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code and made amendments to Sections 62, 106, 125, and 220 of the Internal Revenue Code, shall apply to taxable years beginning after December 31, 2003. The Legislature declares that the amendments made by the enactment of this act and the retroactive application contained in the preceding sentence are necessary for the public purpose of conforming state law to the addition of Section 223 of the Internal Revenue Code by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) and thereby prevent undue hardship to taxpayers that would otherwise have been subject to tax and penalties from health plan conversions from Archer Medical Savings Accounts to Health Savings Accounts under Sections 220 and 223 of the Internal Revenue Code. Notwithstanding any provision of law to the contrary, the statute of limitations for the filing of a claim for refund with respect to the retroactive application contained in the first sentence of this section shall not expire before April 15, 2010.

SEC. 80. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

SECTION 1. ~~Section 17144 of the Revenue and Taxation Code is amended to read:~~

~~17144. (a) Section 108(b)(2)(B) of the Internal Revenue Code, relating to general business credit, is modified by substituting "this part" in lieu of "Section 38 (relating to general business credit)."~~

~~(b) Section 108(b)(2)(G) of the Internal Revenue Code, relating to foreign tax credit carryovers, shall not apply.~~

~~(c) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting "11.1 cents" in lieu of "33 1/3 cents" in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.~~

~~(d) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting "\$9" in lieu of "\$3."~~

~~(e) (1) If a taxpayer makes an election for federal income tax purposes under Section 108(e) of the Internal Revenue Code,~~

1 ~~relating to treatment of discharge of qualified real property~~  
2 ~~business indebtedness, a separate election shall not be allowed~~  
3 ~~under paragraph (3) of subdivision (c) of Section 17024.5 and the~~  
4 ~~federal election shall be binding for purposes of this part.~~

5 ~~(2) If a taxpayer has not made an election for federal income~~  
6 ~~tax purposes under Section 108(e) of the Internal Revenue Code,~~  
7 ~~relating to treatment of discharge of qualified real property~~  
8 ~~business indebtedness, then the taxpayer shall not be allowed to~~  
9 ~~make that election for purposes of this part.~~

10 ~~(f) The amendments made to Section 108(d)(7)(A) of the~~  
11 ~~Internal Revenue Code, relating to certain provisions to be~~  
12 ~~applied at the corporate level, by Section 402 of the Job Creation~~  
13 ~~and Worker Assistance Act of 2002 (Public Law 107-147), shall~~  
14 ~~apply to discharges of indebtedness after December 31, 2001, in~~  
15 ~~taxable years ending after that date. This subdivision shall not~~  
16 ~~apply to any discharge of indebtedness made before March 1,~~  
17 ~~2002, pursuant to a plan of reorganization filed with a bankruptcy~~  
18 ~~court on or before October 11, 2001.~~

19 ~~(g) The amendments made to Section 108 of the Internal~~  
20 ~~Revenue Code, relating to the exclusion for payments to~~  
21 ~~individuals under national health service corps loan repayment~~  
22 ~~program and certain state loan repayment programs and relating~~  
23 ~~to the recognition of cancellation of indebtedness income~~  
24 ~~realized on satisfaction of debt with partnership interest, by~~  
25 ~~Section 320 and Section 896, respectively, of the American Jobs~~  
26 ~~Creation Act of 2004 (Public Law 108-357), shall apply to the~~  
27 ~~same extent as those amendments are applicable for federal~~  
28 ~~purposes.~~

29 ~~SEC. 2. Section 24307 of the Revenue and Taxation Code is~~  
30 ~~amended to read:~~

31 ~~24307. (a) Section 108 of the Internal Revenue Code,~~  
32 ~~relating to income from discharge of indebtedness, shall apply,~~  
33 ~~except as otherwise provided.~~

34 ~~(b) Section 108(b)(2)(B) of the Internal Revenue Code,~~  
35 ~~relating to general business credit, is modified by substituting~~  
36 ~~“this part” in lieu of “Section 38 (relating to general business~~  
37 ~~credit).”~~

38 ~~(c) Section 108(b)(2)(G) of the Internal Revenue Code,~~  
39 ~~relating to foreign tax credit carryovers, shall not apply.~~



~~(d) Section 108(b)(3)(B) of the Internal Revenue Code, relating to credit carryover reduction, is modified by substituting “11.1 cents” in lieu of “33 ⅓ cents” in each place in which it appears. In the case where more than one credit is allowable under this part, the credits shall be reduced on a pro rata basis.~~

~~(e) Section 108(g)(3)(B) of the Internal Revenue Code, relating to adjusted tax attributes, is modified by substituting “\$9” in lieu of “\$3.”~~

~~(f) (1)–~~

~~If a taxpayer makes an election for federal income tax purposes under Section 108(e) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, a separate election shall not be allowed under paragraph (3) of subdivision (c) of Section 23051.5 and the federal election shall be binding for purposes of this part.~~

~~(2) If a taxpayer has not made an election for federal income tax purposes under Section 108(e) of the Internal Revenue Code, relating to treatment of discharge of qualified real property business indebtedness, then the taxpayer shall not be allowed to make that election for purposes of this part.~~

~~(g)–~~

~~The amendments made to Section 108(d)(7)(A) of the Internal Revenue Code, relating to certain provisions to be applied at the corporate level by Section 402 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147), shall apply to discharges of indebtedness after December 31, 2001, in taxable years ending after that date. This subdivision shall not apply to any discharge of indebtedness made before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.~~

~~(h) The amendments made to Section 108 of the Internal Revenue Code, relating to the recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest by Section 896 of the American Jobs Creation Act of 2004 (Public Law 108-357), shall apply to the same extent as those amendments are applicable for federal purposes.~~

- 1     ~~SEC. 3.—This act provides for a tax levy within the meaning of~~  
2     ~~Article IV of the Constitution and shall go into immediate effect.~~